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Legislative History – Montana Session Law

Chapter: 423 Session L: 2007

Bill Number: SB 446

Checklist of Bill History

History and Final Status Sheet	☐
Introduced Bill	☐
Fiscal Note	☐
Third Reading Bill	☐
Final Version of Bill	☐

House

Committee: Natural Resources

Hearing Date(s): 4/2/2007

Committee Report: 4/4/2007

Senate

Committee: Natural Resources

Hearing Date(s): 2/14/2007

Committee Report: 2/15/2007

Conference Committee

Hearing Date(s):

Conference Committee Report:

Compiler Notes

Compiled by: SK Marshall

Date: 10/8/2025

Notes: Audio/Video recordings can be found here:

<https://sg001-harmony.sliq.net/00309/Harmony/en>



AN ACT GENERALLY REVISING THE LAWS RELATING TO REVIEW OF PUBLIC WATER AND SEWAGE SYSTEMS BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY; REMOVING INDUSTRIAL WASTE DISCHARGE SYSTEMS FROM DEPARTMENT REVIEW; REMOVING THE EXEMPTION FROM DEPARTMENT REVIEW OF PUBLIC SEWAGE SYSTEMS THAT HAVE WATER QUALITY DISCHARGE PERMITS; EXPRESSLY AUTHORIZING ADOPTION OF MANAGERIAL AND TECHNICAL CAPACITY RULES; AUTHORIZING THE ADOPTION OF SOURCE WATER PROTECTION REQUIREMENTS; ELIMINATING PROVISIONS THAT DUPLICATE PROVISIONS CONTAINED IN THE WATER QUALITY STATUTES; AND AMENDING SECTIONS 37-42-102, 75-6-102, 75-6-103, 75-6-104, 75-6-112, AND 75-6-120, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-42-102, MCA, is amended to read:

"37-42-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

- (1) "Board" means the board of environmental review provided for in 2-15-3502.
- (2) "Certificate" means a certificate of competency issued by the department, stating that the operator holding the certificate has met the requirements for the specified operator classification of the certification program.
- (3) "Community water system" means a public water supply system that serves at least 15 service connections used by year-round residents or that regularly serves at least 25 year-round residents.
- (4) "Council" means the water and wastewater operators' advisory council provided for in 2-15-2105.
- (5) "Department" means the department of environmental quality provided for in 2-15-3501.
- (6) "Industrial waste" means any waste substance from the processes of business or industry or from the development of a natural resource, together with any sewage that may be present.
- (7) "Industrial waste discharge system" means a system that discharges industrial waste into state waters.

~~(6)~~(8) "Nontransient noncommunity water system" means a public water system, as defined in 75-6-202, that is not a community system and that regularly serves at least 25 of the same persons for at least 6 months

a year.

~~(7)~~(9) "Operator" means the person in direct responsible charge of the operation of a water treatment plant, water distribution system, or wastewater treatment plant.

~~(8)~~(10) "State waters" means the term as defined in 75-6-102.

~~(9)~~(11) "Wastewater treatment plant" means a facility that:

(a) is designed to remove solids, bacteria, or other harmful constituents of sewage, industrial ~~wastes~~ waste, or other wastes; and

(b) is part of either an industrial waste discharge system or a public sewage system as defined in 75-6-102.

~~(10)~~(12) "Water distribution system" means that portion of the water supply system that conveys water from the water treatment plant or other supply source to the premises of the consumer and that is part of a community water system or a nontransient noncommunity water system.

~~(11)~~(13) "Water supply system" means a system of pipes, structures, and facilities through which water is obtained, treated, sold, distributed, or otherwise offered to the public for household use or use by humans and that is part of a community water system or a nontransient noncommunity water system.

~~(12)~~(14) "Water treatment plant" means that portion of the water supply system that alters either the physical, chemical, or bacteriological quality of the water and renders it safe and palatable for human use."

Section 2. Section 75-6-102, MCA, is amended to read:

"75-6-102. Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Board" means the board of environmental review provided for in 2-15-3502.

(2) "Certified ~~wellhead~~ source water protection area" means an area certified by the department that ~~protects~~ identifies the surface and subsurface area surrounding a source of ~~ground~~ water for a public water supply system through which contaminants may move toward and reach the source of supply.

(3) "Community water system" means a public water supply system that serves at least 15 service connections used by year-round residents or that regularly serves at least 25 year-round residents.

(4) "Contamination" means impairment of the quality of state waters by sewage, industrial ~~wastes~~ waste, or other ~~wastes~~ waste creating a hazard to human health.

(5) "Cross-connection" means a connection between a public water supply system and another water

supply system, either public or private, or a wastewater or sewerline or other potential source of contamination so that a flow of water into or contamination of the public water supply system from the other source of water or contamination is possible.

(6) "Department" means the department of environmental quality provided for in 2-15-3501.

(7) "Drainage" means rainfall, surface, and subsoil water.

(8) "Industrial waste" means any waste substance from the processes of business or industry or from the development of a natural resource, together with any sewage that may be present.

~~(9) "Industrial waste discharge system" means a system that discharges industrial waste into state waters.~~

~~(10)~~(9) "Maximum contaminant level" means the maximum permissible level of a contaminant in water that is delivered to a user of a public water supply system.

~~—— (11) "Montana wellhead protection program" means a program administered by the department to certify wellhead protection areas and review wellhead protection ordinances.~~

~~(12)~~(10) "Other waste" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.

~~(13)~~(11) "Person" means an individual, firm, partnership, company, association, corporation, city, town, local government entity, federal agency, or any other governmental or private entity, whether organized for profit or not.

~~(14)~~(12) (a) "Pollution" means contamination or other alteration of the physical, chemical, or biological properties of state waters that exceeds that which is permitted by Montana water quality standards, including but not limited to standards relating to change in temperature, taste, color, turbidity, or odor or the discharge or introduction of a liquid, gaseous, solid, radioactive, or other substance into state water that will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other wildlife.

(b) A discharge that is authorized under the pollution discharge permit rules of the board is not pollution under this chapter.

~~(15)~~(13) "Public sewage system" means a system of collection, transportation, treatment, or disposal of sewage that serves 15 or more families or 25 or more persons daily for any 60 or more days in a calendar year.

~~(16)~~(14) "Public water supply system" means a system for the provision of water for human consumption

from a community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that has at least 15 service connections or that regularly serves at least 25 persons daily for any 60 or more days in a calendar year.

~~(47)~~(15) "Safe Drinking Water Act" means 42 U.S.C. 300f and regulations set forth in 40 CFR, parts 141 and 142.

~~(48)~~(16) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings, including discharge from human beings, together with ground water infiltration and surface water present.

(17) "Source water protection program" means a program administered by the department to certify source water protection delineation and assessment reports and source water protection plans and to review source water protection ordinances.

~~(49)~~(18) "State waters" means a body of water, irrigation system, or drainage system, either surface or underground.

~~(20)~~(19) "Transient noncommunity water system" means a public water supply system that is not a community water system and that does not regularly serve at least 25 of the same persons for at least 6 months a year."

Section 3. Section 75-6-103, MCA, is amended to read:

"75-6-103. Duties of board. (1) The board has general supervision over all state waters that are directly or indirectly being used by a person for a public water supply system or domestic purposes or as a source of ice.

(2) The board shall, subject to the provisions of 75-6-116, adopt rules and standards concerning:

- (a) maximum contaminant levels for waters that are or will be used for a public water supply system;
- (b) fees, as described in 75-6-108, for services rendered by the department;
- (c) monitoring, recordkeeping, and reporting by persons who own or operate public water supply systems;

(d) requiring public notice to all users of a public water supply system when a person has been granted a variance or exemption or is in violation of this part or a rule or order issued pursuant to this part;

(e) the siting, construction, operation, and modification of a public water supply system or public sewage system;

(f) the review of the technical, managerial, and financial viability capacity of a proposed public water

supply system or public sewage system, as necessary to ensure the capability of the system to meet the requirements of this part;

(g) the collection and analysis of samples of water used for drinking or domestic purposes;

(h) the issuance of variances and exemptions as authorized by the federal Safe Drinking Water Act and this part;

(i) administrative enforcement procedures and administrative penalties authorized under this part;

(j) standards and requirements for the review and approval of programs that may be voluntarily submitted by suppliers of public water supply systems to prevent water supply contamination from a cross-connection, including provisions to exempt cross-connections from the standards and requirements if all connected systems are department-approved public water supply systems; and

(k) any other requirement necessary for the protection of public health as described in this part.

(3) Board rules must provide for the following:

(a) a water supply or water distribution facility reviewed and approved by the department is not subject to changes in department design and construction criteria for a period of 36 months after written approval of the facility is issued by the department;

(b) except for facilities subject to permit requirements under Title 75, chapter 5, part 4, a system of water supply, drainage, wastewater, or sewage reviewed and approved under this section is not subject to changes in department design or construction criteria for a period of 36 months after written approval is issued by the department;

(c) plans and specifications for a portion of a facility or system subject to a 36-month limit on criteria changes pursuant to subsections (3)(a) and (3)(b), but not constructed within the 36-month timeframe, must be resubmitted for department review and approval before construction of that portion of the facility;

(d) the provisions of this subsection (3) may not limit an applicant's ability to alter a proposed project that is otherwise in conformance with applicable laws, rules, standards, and criteria.

(4) The board may issue orders necessary to fully implement the provisions of this part."

Section 4. Section 75-6-104, MCA, is amended to read:

"75-6-104. Duties of department. The department shall:

(1) upon its own initiative or complaint to the department, to the mayor or health officer of a municipality, or to the managing board or officer of a public institution, make an investigation of alleged pollution of a water

supply system and, if required, prohibit the continuance of the pollution by ordering removal of the cause of pollution;

(2) have waters examined to determine their quality and the possibility that they may endanger public health;

(3) consult and advise authorities of cities and towns and persons having or about to construct systems for water supply, drainage, wastewater, and sewage as to the most appropriate source of water supply and the best method of ~~assuring~~ ensuring its quality;

(4) advise persons as to the best method of treating and disposing of their drainage, sewage, or wastewater with reference to the existing and future needs of other persons and to prevent pollution;

(5) consult with persons engaged in or intending to engage in manufacturing or other business whose drainage or sewage may tend to pollute waters as to the best method of preventing pollution;

(6) collect fees, as described in 75-6-108, for services and deposit the fees collected in the public drinking water special revenue fund established in 75-6-115;

(7) establish and maintain experiment stations and conduct experiments to study the best methods of treating water, drainage, wastewater, and sewage, ~~and industrial waste~~ to prevent pollution, including investigation of methods used in other states;

(8) enter on premises at reasonable times to determine sources of pollution or danger to water supply systems and whether rules and standards of the board are being obeyed;

(9) enforce and administer the provisions of this part;

(10) establish a plan for the provision of safe drinking water under emergency circumstances;

(11) maintain an inventory of public water supply systems and establish a program for conducting sanitary surveys; and

(12) enter into agreements with local boards of health ~~wherever~~ whenever appropriate for the performance of surveys and inspections under the provisions of this part."

Section 5. Section 75-6-112, MCA, is amended to read:

"75-6-112. Prohibited acts. A person may not:

~~(1) discharge sewage, drainage, industrial waste, or other wastes that will cause pollution of state waters used by a person for domestic use or as a source for a public water supply system or water or ice company;~~

~~——— (2) discharge sewage, drainage, industrial waste, or other waste into state waters or on the banks of~~

state waters or into an abandoned or operating water well unless the sewage, drainage, industrial waste, or other waste is treated as prescribed by the board;

(3)(1) commence or continue construction, alteration, extension, or operation of a system of water supply or water distribution that is ~~designed~~ intended to be used as a public water supply system or a system of sewer, drainage, waste, or sewage disposal that is ~~designed~~ intended to be used as a public sewage system or industrial waste discharge system before the person submits to the department necessary maps, plans, and specifications for its review and the department approves those maps, plans, and specifications; ~~However, any facility reviewed by the department under Title 75, chapter 5, is not subject to the provisions of this section.~~

(4)(2) operate or maintain a public water supply system that exceeds a maximum contaminant level established by the board unless the person has been granted or has an application pending for a variance or exemption pursuant to this part;

(5)(3) violate any provision of this part or a rule adopted under this part; or

(6)(4) violate any condition or requirement of an approval issued pursuant to this part."

Section 6. Section 75-6-120, MCA, is amended to read:

"75-6-120. ~~Montana wellhead~~ Wellhead and source water protection program programs -- voluntary petitions. (1) The federal Safe Drinking Water Act, including 42 U.S.C. 300h-7 and 300j-13, enables the department to administer ~~a wellhead protection program and source water assessment programs~~ that ~~involves~~ involve delineation of the boundaries of the assessment areas from which a public water system receives supplies of drinking water, certification of local ~~wellhead~~ source water protection areas, assessment of source water susceptibility to regulated contaminants, and review of ~~wellhead~~ source water protection area ordinances. In administering ~~this program~~ these programs, the department may perform only those functions provided for by the federal Safe Drinking Water Act and this section.

(2) A supplier of a public water supply system may voluntarily submit for department review and approval a petition to establish a ~~wellhead~~ source water protection program for the system.

(3) The department may certify a ~~wellhead~~ source water protection area upon:

(a) receipt of a petition by a supplier for a public water supply system; and

(b) making a determination that the ~~wellhead~~ source water protection area meets criteria and thresholds for certification established by the Montana ~~wellhead~~ source water protection program.

(4) (a) The governing body of the county in which a ~~wellhead~~ source water protection area or areas exist

may adopt an ordinance to regulate, control, and prohibit conditions that threaten the quality of water used within the ~~wellhead~~ source water protection area or areas.

(b) Prior to adopting a ~~wellhead~~ source water protection area ordinance, the governing body shall confer with the supplier of the public water supply system and shall then submit the ordinance to the department for review and verification that the ordinance is consistent with the requirements of this chapter.

(c) A ~~wellhead~~ source water protection area ordinance must be adopted using the procedures described in 7-5-103 through 7-5-107.

(5) (a) An ordinance adopted under subsection (4) is limited in applicability to the certified ~~wellhead~~ source water protection area or areas within the county.

(b) For a ~~wellhead~~ source water protection area that is located in two or more counties, the proposed ~~wellhead~~ source water protection area ordinance must be adopted by each county in order for the ordinance to be effective.

(6) A ~~wellhead~~ source water protection area ordinance adopted under this section may not conflict with and may not duplicate any other federal, state, or local law or regulation, including but not limited to zoning, fire codes, hazardous waste regulation under Title 75, chapter 10, part 4, or pesticide regulation under Title 80, chapter 8."

- END -

I hereby certify that the within bill,
SB 0446, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2019.

Speaker of the House

Signed this _____ day
of _____, 2019.

SENATE BILL NO. 446
INTRODUCED BY PERRY

AN ACT GENERALLY REVISING THE LAWS RELATING TO REVIEW OF PUBLIC WATER AND SEWAGE SYSTEMS BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY; REMOVING INDUSTRIAL WASTE DISCHARGE SYSTEMS FROM DEPARTMENT REVIEW; REMOVING THE EXEMPTION FROM DEPARTMENT REVIEW OF PUBLIC SEWAGE SYSTEMS THAT HAVE WATER QUALITY DISCHARGE PERMITS; EXPRESSLY AUTHORIZING ADOPTION OF MANAGERIAL AND TECHNICAL CAPACITY RULES; AUTHORIZING THE ADOPTION OF SOURCE WATER PROTECTION REQUIREMENTS; ELIMINATING PROVISIONS THAT DUPLICATE PROVISIONS CONTAINED IN THE WATER QUALITY STATUTES; AND AMENDING SECTIONS 37-42-102, 75-6-102, 75-6-103, 75-6-104, 75-6-112, AND 75-6-120, MCA.

Exported Data

Date	Action	Committee	Votes (Yes)	Votes (No)	Media
05/03/07	Chapter Number Assigned				
05/03/07	(S) Signed by Governor				
04/24/07	(S) Transmitted to Governor				
04/24/07	(H) Signed by Speaker				
04/18/07	(S) Signed by President				
04/17/07	(S) Returned from Enrolling				
04/17/07	(C) Printed - New Version Available				
04/16/07	(S) Sent to Enrolling				
04/16/07	(H) Returned to Senate				
04/16/07	(H) 3rd Reading Concurred		96	4	
04/16/07	(H) Scheduled for 3rd Reading				
04/14/07	(C) Printed - New Version Available				
04/14/07	(H) 2nd Reading Concurred		96	3	
04/14/07	(H) Scheduled for 2nd Reading				
04/04/07	(H) Committee Report--Bill Concurred	(H) Natural Resources			
04/04/07	(H) Committee Executive Action--Bill Concurred	(H) Natural Resources	16	0	
04/02/07	(H) Hearing	(H) Natural Resources			
03/15/07	(H) First Reading				
03/15/07	(H) Referred to Committee	(H) Natural Resources			
02/20/07	(S) Transmitted to House				
02/20/07	(S) 3rd Reading Passed		50	0	
02/20/07	(S) Scheduled for 3rd Reading				
02/19/07	(S) 2nd Reading Passed on Voice Vote		49	0	
02/19/07	(S) Fiscal Note Printed				
02/19/07	(S) Scheduled for 2nd Reading				
02/16/07	(S) Fiscal Note Received				
02/15/07	(S) Committee Report--Bill Passed	(S) Natural Resources and Energy			
02/15/07	(S) Committee Executive Action--Bill Passed	(S) Natural Resources and Energy	9	0	
02/14/07	(S) Hearing	(S) Natural Resources and Energy			
02/09/07	(C) Introduced Bill Text Available Electronically				
02/09/07	(S) Referred to Committee	(S) Natural Resources and			

Date	Action	Committee	Votes (Yes)	Votes (No)	Media
Energy					
02/09/07	(S) First Reading				
02/09/07	(S) Introduced				
02/09/07	(S) Fiscal Note Requested				
02/08/07	(C) Draft Delivered to Requester				
02/05/07	(C) Draft Ready for Delivery				
02/01/07	(C) Draft in Assembly/Executive Director Review				
02/01/07	(C) Draft in Final Drafter Review				
01/31/07	(C) Bill Draft Text Available Electronically				
01/31/07	(C) Draft in Input/Proofing				
01/31/07	(C) Draft to Drafter - Edit Review [SAB]				
01/31/07	(C) Draft in Edit				
01/30/07	(C) Draft in Legal Review				
01/30/07	(C) Draft to Requester for Review				
01/26/07	(C) Draft Taken Off Hold				
01/25/07	(C) Draft On Hold				
01/19/07	(C) Draft Taken Off Hold				
12/30/06	(C) Draft On Hold				
12/21/06	(C) Draft Request Received				



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2009 Biennium

Bill #	SB0446	Title:	Revise water law re: industrial waste discharge
Primary Sponsor:	Perry, Gary L	Status:	As Introduced

- | | | |
|---|--|--|
| ☐ Significant Local Gov Impact | ☐ Needs to be included in HB 2 | ☐ Technical Concerns |
| ☐ Included in the Executive Budget | ☐ Significant Long-Term Impacts | ☐ Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL ANALYSIS

Assumptions:

Department of Environmental Quality (DEQ)

1. New public sewer systems and modifications to existing systems are currently required to go through plan and specification review if they utilize many of the available funding grants and loans.
2. Systems that could utilize the existing exemption are still required to comply with the established standards whether they are reviewed or not.
3. All systems have historically been undergoing the review and approval process even with the exemption in place.
4. The term "source water" in place of "wellhead protection" is reflective of a broader application of the program that is now required to include both surface water and ground water.

5. The authority to adopt rules related to financial, technical, and managerial capacity is required from the Environmental Protection Agency. The proposed changes make the DEQ capacity authority clear.
6. There will be no fiscal impact to the DEQ as a result of this bill.

Sponsor's Initials

Date

Budget Director's Initials

Date

SENATE BILL NO. 446
INTRODUCED BY G. PERRY

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO REVIEW OF PUBLIC WATER AND SEWAGE SYSTEMS BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY; REMOVING INDUSTRIAL WASTE DISCHARGE SYSTEMS FROM DEPARTMENT REVIEW; REMOVING THE EXEMPTION FROM DEPARTMENT REVIEW OF PUBLIC SEWAGE SYSTEMS THAT HAVE WATER QUALITY DISCHARGE PERMITS; EXPRESSLY AUTHORIZING ADOPTION OF MANAGERIAL AND TECHNICAL CAPACITY RULES; AUTHORIZING THE ADOPTION OF SOURCE WATER PROTECTION REQUIREMENTS; ELIMINATING PROVISIONS THAT DUPLICATE PROVISIONS CONTAINED IN THE WATER QUALITY STATUTES; AND AMENDING SECTIONS 37-42-102, 75-6-102, 75-6-103, 75-6-104, 75-6-112, AND 75-6-120, MCA."

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- (7) "Industrial waste discharge system" means a system that discharges industrial waste into state waters.
- ~~(6)~~(8) "Nontransient noncommunity water system" means a public water system, as defined in 75-6-202,

that is not a community system and that regularly serves at least 25 of the same persons for at least 6 months a year.

(7)(9) "Operator" means the person in direct responsible charge of the operation of a water treatment plant, water distribution system, or wastewater treatment plant.

(8)(10) "State waters" means the term as defined in 75-6-102.

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supply system, either public or private, or a wastewater or sewerline or other potential source of contamination so that a flow of water into or contamination of the public water supply system from the other source of water or contamination is possible.

(6) "Department" means the department of environmental quality provided for in 2-15-3501.

(7) "Drainage" means rainfall, surface, and subsoil water.

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~~(13)~~(11) "Person" means an individual, firm, partnership, company, association, corporation, city, town, local government entity, federal agency, or any other governmental or private entity, whether organized for profit or not.

~~(14)~~(12) (a) "Pollution" means contamination or other alteration of the physical, chemical, or biological properties of state waters that exceeds that which is permitted by Montana water quality standards, including but not limited to standards relating to change in temperature, taste, color, turbidity, or odor or the discharge or introduction of a liquid, gaseous, solid, radioactive, or other substance into state water that will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other wildlife.

~~(b)~~ A discharge that is authorized under the pollution discharge permit rules of the board is not pollution under this chapter.

~~(15)~~(13) "Public sewage system" means a system of collection, transportation, treatment, or disposal of sewage that serves 15 or more families or 25 or more persons daily for any 60 or more days in a calendar year.

~~(16)~~(14) "Public water supply system" means a system for the provision of water for human consumption from a community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that

has at least 15 service connections or that regularly serves at least 25 persons daily for any 60 or more days in a calendar year.

~~(17)~~(15) "Safe Drinking Water Act" means 42 U.S.C. 300f and regulations set forth in 40 CFR, parts 141 and 142.

~~(18)~~(16) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings, including discharge from human beings, together with ground water infiltration and surface water present.

(17) "Source water protection program" means a program administered by the department to certify source water protection delineation and assessment reports and source water protection plans and to review source water protection ordinances.

~~(19)~~(18) "State waters" means a body of water, irrigation system, or drainage system, either surface or underground.

~~(20)~~(19) "Transient noncommunity water system" means a public water supply system that is not a community water system and that does not regularly serve at least 25 of the same persons for at least 6 months a year."

Section 3. Section 75-6-103, MCA, is amended to read:

"75-6-103. Duties of board. (1) The board has general supervision over all state waters that are directly or indirectly being used by a person for a public water supply system or domestic purposes or as a source of ice.

(2) The board shall, subject to the provisions of 75-6-116, adopt rules and standards concerning:

- (a) maximum contaminant levels for waters that are or will be used for a public water supply system;
- (b) fees, as described in 75-6-108, for services rendered by the department;
- (c) monitoring, recordkeeping, and reporting by persons who own or operate public water supply systems;

(d) requiring public notice to all users of a public water supply system when a person has been granted a variance or exemption or is in violation of this part or a rule or order issued pursuant to this part;

(e) the siting, construction, operation, and modification of a public water supply system or public sewage system;

(f) the review of the technical, managerial, and financial viability capacity of a proposed public water supply system or public sewage system, as necessary to ensure the capability of the system to meet the requirements of this part;

- (g) the collection and analysis of samples of water used for drinking or domestic purposes;
 - (h) the issuance of variances and exemptions as authorized by the federal Safe Drinking Water Act and this part;
 - (i) administrative enforcement procedures and administrative penalties authorized under this part;
 - (j) standards and requirements for the review and approval of programs that may be voluntarily submitted by suppliers of public water supply systems to prevent water supply contamination from a cross-connection, including provisions to exempt cross-connections from the standards and requirements if all connected systems are department-approved public water supply systems; and
 - (k) any other requirement necessary for the protection of public health as described in this part.
- (3) Board rules must provide for the following:
- (a) a water supply or water distribution facility reviewed and approved by the department is not subject to changes in department design and construction criteria for a period of 36 months after written approval of the facility is issued by the department;
 - (b) except for facilities subject to permit requirements under Title 75, chapter 5, part 4, a system of water supply, drainage, wastewater, or sewage reviewed and approved under this section is not subject to changes in department design or construction criteria for a period of 36 months after written approval is issued by the department;
 - (c) plans and specifications for a portion of a facility or system subject to a 36-month limit on criteria changes pursuant to subsections (3)(a) and (3)(b), but not constructed within the 36-month timeframe, must be resubmitted for department review and approval before construction of that portion of the facility;
 - (d) the provisions of this subsection (3) may not limit an applicant's ability to alter a proposed project that is otherwise in conformance with applicable laws, rules, standards, and criteria.
- (4) The board may issue orders necessary to fully implement the provisions of this part."

Section 4. Section 75-6-104, MCA, is amended to read:

"75-6-104. Duties of department. The department shall:

- (1) upon its own initiative or complaint to the department, to the mayor or health officer of a municipality, or to the managing board or officer of a public institution, make an investigation of alleged pollution of a water supply system and, if required, prohibit the continuance of the pollution by ordering removal of the cause of pollution;
- (2) have waters examined to determine their quality and the possibility that they may endanger public

health;

(3) consult and advise authorities of cities and towns and persons having or about to construct systems for water supply, drainage, wastewater, and sewage as to the most appropriate source of water supply and the best method of ~~assuring~~ ensuring its quality;

(4) advise persons as to the best method of treating and disposing of their drainage, sewage, or wastewater with reference to the existing and future needs of other persons and to prevent pollution;

(5) consult with persons engaged in or intending to engage in manufacturing or other business whose drainage or sewage may tend to pollute waters as to the best method of preventing pollution;

(6) collect fees, as described in 75-6-108, for services and deposit the fees collected in the public drinking water special revenue fund established in 75-6-115;

(7) establish and maintain experiment stations and conduct experiments to study the best methods of treating water, drainage, wastewater, and sewage, ~~and industrial waste~~ to prevent pollution, including investigation of methods used in other states;

(8) enter on premises at reasonable times to determine sources of pollution or danger to water supply systems and whether rules and standards of the board are being obeyed;

(9) enforce and administer the provisions of this part;

(10) establish a plan for the provision of safe drinking water under emergency circumstances;

(11) maintain an inventory of public water supply systems and establish a program for conducting sanitary surveys; and

(12) enter into agreements with local boards of health ~~wherever~~ whenever appropriate for the performance of surveys and inspections under the provisions of this part."

Section 5. Section 75-6-112, MCA, is amended to read:

"75-6-112. Prohibited acts. A person may not:

~~(1) discharge sewage, drainage, industrial waste, or other wastes that will cause pollution of state waters used by a person for domestic use or as a source for a public water supply system or water or ice company;~~

~~———(2) discharge sewage, drainage, industrial waste, or other waste into state waters or on the banks of state waters or into an abandoned or operating water well unless the sewage, drainage, industrial waste, or other waste is treated as prescribed by the board;~~

~~(3)~~(1) commence or continue construction, alteration, extension, or operation of a system of water supply or water distribution that is ~~designed~~ intended to be used as a public water supply system or a system of sewer;

~~drainage, waste, or sewage disposal that is designed intended to be used as a public sewage system or industrial waste discharge system before the person submits to the department necessary maps, plans, and specifications for its review and the department approves those maps, plans, and specifications. However, any facility reviewed by the department under Title 75, chapter 5, is not subject to the provisions of this section.~~

(4)(2) operate or maintain a public water supply system that exceeds a maximum contaminant level established by the board unless the person has been granted or has an application pending for a variance or exemption pursuant to this part;

(5)(3) violate any provision of this part or a rule adopted under this part; or

(6)(4) violate any condition or requirement of an approval issued pursuant to this part."

Section 6. Section 75-6-120, MCA, is amended to read:

"75-6-120. ~~Montana wellhead~~ Wellhead and source water protection program programs -- voluntary petitions. (1) The federal Safe Drinking Water Act, including 42 U.S.C. 300h-7 ~~and 300j-13~~, enables the department to administer ~~a wellhead protection program and source water assessment programs that involves~~ involve delineation of the boundaries of the assessment areas from which a public water system receives supplies of drinking water, certification of local wellhead source water protection areas, assessment of source water susceptibility to regulated contaminants, and review of wellhead source water protection area ordinances. In administering ~~this program these programs~~, the department may perform only those functions provided for by the federal Safe Drinking Water Act and this section.

(2) A supplier of a public water supply system may voluntarily submit for department review and approval a petition to establish a ~~wellhead~~ source water protection program for the system.

(3) The department may certify a ~~wellhead~~ source water protection area upon:

(a) receipt of a petition by a supplier for a public water supply system; and

(b) making a determination that the ~~wellhead~~ source water protection area meets criteria and thresholds for certification established by the Montana ~~wellhead~~ source water protection program.

(4) (a) The governing body of the county in which a ~~wellhead~~ source water protection area or areas exist may adopt an ordinance to regulate, control, and prohibit conditions that threaten the quality of water used within the ~~wellhead~~ source water protection area or areas.

(b) Prior to adopting a ~~wellhead~~ source water protection area ordinance, the governing body shall confer with the supplier of the public water supply system and shall then submit the ordinance to the department for review and verification that the ordinance is consistent with the requirements of this chapter.

(c) A ~~wellhead~~ source water protection area ordinance must be adopted using the procedures described in 7-5-103 through 7-5-107.

(5) (a) An ordinance adopted under subsection (4) is limited in applicability to the certified ~~wellhead~~ source water protection area or areas within the county.

(b) For a ~~wellhead~~ source water protection area that is located in two or more counties, the proposed ~~wellhead~~ source water protection area ordinance must be adopted by each county in order for the ordinance to be effective.

(6) A ~~wellhead~~ source water protection area ordinance adopted under this section may not conflict with and may not duplicate any other federal, state, or local law or regulation, including but not limited to zoning, fire codes, hazardous waste regulation under Title 75, chapter 10, part 4, or pesticide regulation under Title 80, chapter 8."

- END -

SENATE BILL NO. 446
INTRODUCED BY PERRY

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO REVIEW OF PUBLIC WATER AND SEWAGE SYSTEMS BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY; REMOVING INDUSTRIAL WASTE DISCHARGE SYSTEMS FROM DEPARTMENT REVIEW; REMOVING THE EXEMPTION FROM DEPARTMENT REVIEW OF PUBLIC SEWAGE SYSTEMS THAT HAVE WATER QUALITY DISCHARGE PERMITS; EXPRESSLY AUTHORIZING ADOPTION OF MANAGERIAL AND TECHNICAL CAPACITY RULES; AUTHORIZING THE ADOPTION OF SOURCE WATER PROTECTION REQUIREMENTS; ELIMINATING PROVISIONS THAT DUPLICATE PROVISIONS CONTAINED IN THE WATER QUALITY STATUTES; AND AMENDING SECTIONS 37-42-102, 75-6-102, 75-6-103, 75-6-104, 75-6-112, AND 75-6-120, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-42-102, MCA, is amended to read:

"37-42-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

- (1) "Board" means the board of environmental review provided for in 2-15-3502.
- (2) "Certificate" means a certificate of competency issued by the department, stating that the operator holding the certificate has met the requirements for the specified operator classification of the certification program.
- (3) "Community water system" means a public water supply system that serves at least 15 service connections used by year-round residents or that regularly serves at least 25 year-round residents.
- (4) "Council" means the water and wastewater operators' advisory council provided for in 2-15-2105.
- (5) "Department" means the department of environmental quality provided for in 2-15-3501.
- (6) "Industrial waste" means any waste substance from the processes of business or industry or from the development of a natural resource, together with any sewage that may be present.
- (7) "Industrial waste discharge system" means a system that discharges industrial waste into state waters.
- ~~(6)~~(8) "Nontransient noncommunity water system" means a public water system, as defined in 75-6-202,

that is not a community system and that regularly serves at least 25 of the same persons for at least 6 months a year.

~~(7)(9)~~ "Operator" means the person in direct responsible charge of the operation of a water treatment plant, water distribution system, or wastewater treatment plant.

~~(8)(10)~~ "State waters" means the term as defined in 75-6-102.

~~(9)(11)~~ "Wastewater treatment plant" means a facility that:

(a) is designed to remove solids, bacteria, or other harmful constituents of sewage, industrial ~~wastes~~ waste, or other wastes; and

(b) is part of either an industrial waste discharge system or a public sewage system as defined in 75-6-102.

~~(10)(12)~~ "Water distribution system" means that portion of the water supply system that conveys water from the water treatment plant or other supply source to the premises of the consumer and that is part of a community water system or a nontransient noncommunity water system.

~~(11)(13)~~ "Water supply system" means a system of pipes, structures, and facilities through which water is obtained, treated, sold, distributed, or otherwise offered to the public for household use or use by humans and that is part of a community water system or a nontransient noncommunity water system.

~~(12)(14)~~ "Water treatment plant" means that portion of the water supply system that alters either the physical, chemical, or bacteriological quality of the water and renders it safe and palatable for human use."

Section 2. Section 75-6-102, MCA, is amended to read:

"75-6-102. Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Board" means the board of environmental review provided for in 2-15-3502.

(2) "Certified ~~wellhead~~ source water protection area" means an area certified by the department that ~~protects~~ identifies the surface and subsurface area surrounding a source of ~~ground~~ water for a public water supply system through which contaminants may move toward and reach the source of supply.

(3) "Community water system" means a public water supply system that serves at least 15 service connections used by year-round residents or that regularly serves at least 25 year-round residents.

(4) "Contamination" means impairment of the quality of state waters by sewage, industrial ~~wastes~~ waste, or other ~~wastes~~ waste creating a hazard to human health.

(5) "Cross-connection" means a connection between a public water supply system and another water

supply system, either public or private, or a wastewater or sewerline or other potential source of contamination so that a flow of water into or contamination of the public water supply system from the other source of water or contamination is possible.

(6) "Department" means the department of environmental quality provided for in 2-15-3501.

(7) "Drainage" means rainfall, surface, and subsoil water.

(8) "Industrial waste" means any waste substance from the processes of business or industry or from the development of a natural resource, together with any sewage that may be present.

~~(9) "Industrial waste discharge system" means a system that discharges industrial waste into state waters.~~

~~(10)~~(9) "Maximum contaminant level" means the maximum permissible level of a contaminant in water that is delivered to a user of a public water supply system.

~~———(11) "Montana wellhead protection program" means a program administered by the department to certify wellhead protection areas and review wellhead protection ordinances.~~

~~(12)~~(10) "Other waste" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.

~~(13)~~(11) "Person" means an individual, firm, partnership, company, association, corporation, city, town, local government entity, federal agency, or any other governmental or private entity, whether organized for profit or not.

~~(14)~~(12) (a) "Pollution" means contamination or other alteration of the physical, chemical, or biological properties of state waters that exceeds that which is permitted by Montana water quality standards, including but not limited to standards relating to change in temperature, taste, color, turbidity, or odor or the discharge or introduction of a liquid, gaseous, solid, radioactive, or other substance into state water that will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other wildlife.

~~(b)~~ A discharge that is authorized under the pollution discharge permit rules of the board is not pollution under this chapter.

~~(15)~~(13) "Public sewage system" means a system of collection, transportation, treatment, or disposal of sewage that serves 15 or more families or 25 or more persons daily for any 60 or more days in a calendar year.

~~(16)~~(14) "Public water supply system" means a system for the provision of water for human consumption from a community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that

has at least 15 service connections or that regularly serves at least 25 persons daily for any 60 or more days in a calendar year.

~~(17)~~(15) "Safe Drinking Water Act" means 42 U.S.C. 300f and regulations set forth in 40 CFR, parts 141 and 142.

~~(18)~~(16) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings, including discharge from human beings, together with ground water infiltration and surface water present.

(17) "Source water protection program" means a program administered by the department to certify source water protection delineation and assessment reports and source water protection plans and to review source water protection ordinances.

~~(19)~~(18) "State waters" means a body of water, irrigation system, or drainage system, either surface or underground.

~~(20)~~(19) "Transient noncommunity water system" means a public water supply system that is not a community water system and that does not regularly serve at least 25 of the same persons for at least 6 months a year."

Section 3. Section 75-6-103, MCA, is amended to read:

"75-6-103. Duties of board. (1) The board has general supervision over all state waters that are directly or indirectly being used by a person for a public water supply system or domestic purposes or as a source of ice.

(2) The board shall, subject to the provisions of 75-6-116, adopt rules and standards concerning:

- (a) maximum contaminant levels for waters that are or will be used for a public water supply system;
- (b) fees, as described in 75-6-108, for services rendered by the department;
- (c) monitoring, recordkeeping, and reporting by persons who own or operate public water supply systems;

(d) requiring public notice to all users of a public water supply system when a person has been granted a variance or exemption or is in violation of this part or a rule or order issued pursuant to this part;

(e) the siting, construction, operation, and modification of a public water supply system or public sewage system;

(f) the review of the technical, managerial, and financial viability capacity of a proposed public water supply system or public sewage system, as necessary to ensure the capability of the system to meet the requirements of this part;

- (g) the collection and analysis of samples of water used for drinking or domestic purposes;
 - (h) the issuance of variances and exemptions as authorized by the federal Safe Drinking Water Act and this part;
 - (i) administrative enforcement procedures and administrative penalties authorized under this part;
 - (j) standards and requirements for the review and approval of programs that may be voluntarily submitted by suppliers of public water supply systems to prevent water supply contamination from a cross-connection, including provisions to exempt cross-connections from the standards and requirements if all connected systems are department-approved public water supply systems; and
 - (k) any other requirement necessary for the protection of public health as described in this part.
- (3) Board rules must provide for the following:
- (a) a water supply or water distribution facility reviewed and approved by the department is not subject to changes in department design and construction criteria for a period of 36 months after written approval of the facility is issued by the department;
 - (b) except for facilities subject to permit requirements under Title 75, chapter 5, part 4, a system of water supply, drainage, wastewater, or sewage reviewed and approved under this section is not subject to changes in department design or construction criteria for a period of 36 months after written approval is issued by the department;
 - (c) plans and specifications for a portion of a facility or system subject to a 36-month limit on criteria changes pursuant to subsections (3)(a) and (3)(b), but not constructed within the 36-month timeframe, must be resubmitted for department review and approval before construction of that portion of the facility;
 - (d) the provisions of this subsection (3) may not limit an applicant's ability to alter a proposed project that is otherwise in conformance with applicable laws, rules, standards, and criteria.
- (4) The board may issue orders necessary to fully implement the provisions of this part."

Section 4. Section 75-6-104, MCA, is amended to read:

"75-6-104. Duties of department. The department shall:

- (1) upon its own initiative or complaint to the department, to the mayor or health officer of a municipality, or to the managing board or officer of a public institution, make an investigation of alleged pollution of a water supply system and, if required, prohibit the continuance of the pollution by ordering removal of the cause of pollution;
- (2) have waters examined to determine their quality and the possibility that they may endanger public

health;

(3) consult and advise authorities of cities and towns and persons having or about to construct systems for water supply, drainage, wastewater, and sewage as to the most appropriate source of water supply and the best method of ~~assuring~~ ensuring its quality;

(4) advise persons as to the best method of treating and disposing of their drainage, sewage, or wastewater with reference to the existing and future needs of other persons and to prevent pollution;

(5) consult with persons engaged in or intending to engage in manufacturing or other business whose drainage or sewage may tend to pollute waters as to the best method of preventing pollution;

(6) collect fees, as described in 75-6-108, for services and deposit the fees collected in the public drinking water special revenue fund established in 75-6-115;

(7) establish and maintain experiment stations and conduct experiments to study the best methods of treating water, drainage, wastewater, and sewage, ~~and industrial waste~~ to prevent pollution, including investigation of methods used in other states;

(8) enter on premises at reasonable times to determine sources of pollution or danger to water supply systems and whether rules and standards of the board are being obeyed;

(9) enforce and administer the provisions of this part;

(10) establish a plan for the provision of safe drinking water under emergency circumstances;

(11) maintain an inventory of public water supply systems and establish a program for conducting sanitary surveys; and

(12) enter into agreements with local boards of health ~~wherever~~ whenever appropriate for the performance of surveys and inspections under the provisions of this part."

Section 5. Section 75-6-112, MCA, is amended to read:

"75-6-112. Prohibited acts. A person may not:

~~(1) discharge sewage, drainage, industrial waste, or other wastes that will cause pollution of state waters used by a person for domestic use or as a source for a public water supply system or water or ice company;~~

~~———(2) discharge sewage, drainage, industrial waste, or other waste into state waters or on the banks of state waters or into an abandoned or operating water well unless the sewage, drainage, industrial waste, or other waste is treated as prescribed by the board;~~

~~(3)~~(1) commence or continue construction, alteration, extension, or operation of a system of water supply or water distribution that is ~~designed~~ intended to be used as a public water supply system or a system of sewer;

~~drainage, waste, or sewage disposal that is designed intended to be used as a public sewage system or industrial waste discharge system before the person submits to the department necessary maps, plans, and specifications for its review and the department approves those maps, plans, and specifications. However, any facility reviewed by the department under Title 75, chapter 5, is not subject to the provisions of this section.~~

(4)(2) operate or maintain a public water supply system that exceeds a maximum contaminant level established by the board unless the person has been granted or has an application pending for a variance or exemption pursuant to this part;

(5)(3) violate any provision of this part or a rule adopted under this part; or

(6)(4) violate any condition or requirement of an approval issued pursuant to this part."

Section 6. Section 75-6-120, MCA, is amended to read:

"75-6-120. ~~Montana wellhead~~ Wellhead and source water protection program programs -- voluntary petitions. (1) The federal Safe Drinking Water Act, including 42 U.S.C. 300h-7 ~~and 300j-13~~, enables the department to administer ~~a wellhead protection program and source water assessment programs that involves~~ involve delineation of the boundaries of the assessment areas from which a public water system receives supplies of drinking water, certification of local wellhead source water protection areas, assessment of source water susceptibility to regulated contaminants, and review of wellhead source water protection area ordinances. In administering ~~this program these programs~~, the department may perform only those functions provided for by the federal Safe Drinking Water Act and this section.

(2) A supplier of a public water supply system may voluntarily submit for department review and approval a petition to establish a ~~wellhead~~ source water protection program for the system.

(3) The department may certify a ~~wellhead~~ source water protection area upon:

(a) receipt of a petition by a supplier for a public water supply system; and
(b) making a determination that the ~~wellhead~~ source water protection area meets criteria and thresholds for certification established by the Montana ~~wellhead~~ source water protection program.

(4) (a) The governing body of the county in which a ~~wellhead~~ source water protection area or areas exist may adopt an ordinance to regulate, control, and prohibit conditions that threaten the quality of water used within the ~~wellhead~~ source water protection area or areas.

(b) Prior to adopting a ~~wellhead~~ source water protection area ordinance, the governing body shall confer with the supplier of the public water supply system and shall then submit the ordinance to the department for review and verification that the ordinance is consistent with the requirements of this chapter.

(c) A ~~wellhead~~ source water protection area ordinance must be adopted using the procedures described in 7-5-103 through 7-5-107.

(5) (a) An ordinance adopted under subsection (4) is limited in applicability to the certified ~~wellhead~~ source water protection area or areas within the county.

(b) For a ~~wellhead~~ source water protection area that is located in two or more counties, the proposed ~~wellhead~~ source water protection area ordinance must be adopted by each county in order for the ordinance to be effective.

(6) A ~~wellhead~~ source water protection area ordinance adopted under this section may not conflict with and may not duplicate any other federal, state, or local law or regulation, including but not limited to zoning, fire codes, hazardous waste regulation under Title 75, chapter 10, part 4, or pesticide regulation under Title 80, chapter 8."

- END -



AN ACT GENERALLY REVISING THE LAWS RELATING TO REVIEW OF PUBLIC WATER AND SEWAGE SYSTEMS BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY; REMOVING INDUSTRIAL WASTE DISCHARGE SYSTEMS FROM DEPARTMENT REVIEW; REMOVING THE EXEMPTION FROM DEPARTMENT REVIEW OF PUBLIC SEWAGE SYSTEMS THAT HAVE WATER QUALITY DISCHARGE PERMITS; EXPRESSLY AUTHORIZING ADOPTION OF MANAGERIAL AND TECHNICAL CAPACITY RULES; AUTHORIZING THE ADOPTION OF SOURCE WATER PROTECTION REQUIREMENTS; ELIMINATING PROVISIONS THAT DUPLICATE PROVISIONS CONTAINED IN THE WATER QUALITY STATUTES; AND AMENDING SECTIONS 37-42-102, 75-6-102, 75-6-103, 75-6-104, 75-6-112, AND 75-6-120, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-42-102, MCA, is amended to read:

"37-42-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

- (1) "Board" means the board of environmental review provided for in 2-15-3502.
- (2) "Certificate" means a certificate of competency issued by the department, stating that the operator holding the certificate has met the requirements for the specified operator classification of the certification program.
- (3) "Community water system" means a public water supply system that serves at least 15 service connections used by year-round residents or that regularly serves at least 25 year-round residents.
- (4) "Council" means the water and wastewater operators' advisory council provided for in 2-15-2105.
- (5) "Department" means the department of environmental quality provided for in 2-15-3501.
- (6) "Industrial waste" means any waste substance from the processes of business or industry or from the development of a natural resource, together with any sewage that may be present.
- (7) "Industrial waste discharge system" means a system that discharges industrial waste into state waters.
- ~~(6)~~(8) "Nontransient noncommunity water system" means a public water system, as defined in 75-6-202, that is not a community system and that regularly serves at least 25 of the same persons for at least 6 months

a year.

~~(7)~~(9) "Operator" means the person in direct responsible charge of the operation of a water treatment plant, water distribution system, or wastewater treatment plant.

~~(8)~~(10) "State waters" means the term as defined in 75-6-102.

~~(9)~~(11) "Wastewater treatment plant" means a facility that:

(a) is designed to remove solids, bacteria, or other harmful constituents of sewage, industrial ~~wastes~~ waste, or other wastes; and

(b) is part of either an industrial waste discharge system or a public sewage system as defined in 75-6-102.

~~(10)~~(12) "Water distribution system" means that portion of the water supply system that conveys water from the water treatment plant or other supply source to the premises of the consumer and that is part of a community water system or a nontransient noncommunity water system.

~~(11)~~(13) "Water supply system" means a system of pipes, structures, and facilities through which water is obtained, treated, sold, distributed, or otherwise offered to the public for household use or use by humans and that is part of a community water system or a nontransient noncommunity water system.

~~(12)~~(14) "Water treatment plant" means that portion of the water supply system that alters either the physical, chemical, or bacteriological quality of the water and renders it safe and palatable for human use."

Section 2. Section 75-6-102, MCA, is amended to read:

"75-6-102. Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Board" means the board of environmental review provided for in 2-15-3502.

(2) "Certified ~~wellhead~~ source water protection area" means an area certified by the department that ~~protects~~ identifies the surface and subsurface area surrounding a source of ~~ground~~ water for a public water supply system through which contaminants may move toward and reach the source of supply.

(3) "Community water system" means a public water supply system that serves at least 15 service connections used by year-round residents or that regularly serves at least 25 year-round residents.

(4) "Contamination" means impairment of the quality of state waters by sewage, industrial ~~wastes~~ waste, or other ~~wastes~~ waste creating a hazard to human health.

(5) "Cross-connection" means a connection between a public water supply system and another water

supply system, either public or private, or a wastewater or sewerline or other potential source of contamination so that a flow of water into or contamination of the public water supply system from the other source of water or contamination is possible.

(6) "Department" means the department of environmental quality provided for in 2-15-3501.

(7) "Drainage" means rainfall, surface, and subsoil water.

(8) "Industrial waste" means any waste substance from the processes of business or industry or from the development of a natural resource, together with any sewage that may be present.

~~(9) "Industrial waste discharge system" means a system that discharges industrial waste into state waters.~~

~~(10)~~(9) "Maximum contaminant level" means the maximum permissible level of a contaminant in water that is delivered to a user of a public water supply system.

~~—— (11) "Montana wellhead protection program" means a program administered by the department to certify wellhead protection areas and review wellhead protection ordinances.~~

~~(12)~~(10) "Other waste" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.

~~(13)~~(11) "Person" means an individual, firm, partnership, company, association, corporation, city, town, local government entity, federal agency, or any other governmental or private entity, whether organized for profit or not.

~~(14)~~(12) (a) "Pollution" means contamination or other alteration of the physical, chemical, or biological properties of state waters that exceeds that which is permitted by Montana water quality standards, including but not limited to standards relating to change in temperature, taste, color, turbidity, or odor or the discharge or introduction of a liquid, gaseous, solid, radioactive, or other substance into state water that will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, or welfare, to livestock, or to wild animals, birds, fish, or other wildlife.

(b) A discharge that is authorized under the pollution discharge permit rules of the board is not pollution under this chapter.

~~(15)~~(13) "Public sewage system" means a system of collection, transportation, treatment, or disposal of sewage that serves 15 or more families or 25 or more persons daily for any 60 or more days in a calendar year.

~~(16)~~(14) "Public water supply system" means a system for the provision of water for human consumption

from a community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that has at least 15 service connections or that regularly serves at least 25 persons daily for any 60 or more days in a calendar year.

~~(47)~~(15) "Safe Drinking Water Act" means 42 U.S.C. 300f and regulations set forth in 40 CFR, parts 141 and 142.

~~(48)~~(16) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings, including discharge from human beings, together with ground water infiltration and surface water present.

(17) "Source water protection program" means a program administered by the department to certify source water protection delineation and assessment reports and source water protection plans and to review source water protection ordinances.

~~(49)~~(18) "State waters" means a body of water, irrigation system, or drainage system, either surface or underground.

~~(20)~~(19) "Transient noncommunity water system" means a public water supply system that is not a community water system and that does not regularly serve at least 25 of the same persons for at least 6 months a year."

Section 3. Section 75-6-103, MCA, is amended to read:

"75-6-103. Duties of board. (1) The board has general supervision over all state waters that are directly or indirectly being used by a person for a public water supply system or domestic purposes or as a source of ice.

(2) The board shall, subject to the provisions of 75-6-116, adopt rules and standards concerning:

- (a) maximum contaminant levels for waters that are or will be used for a public water supply system;
- (b) fees, as described in 75-6-108, for services rendered by the department;
- (c) monitoring, recordkeeping, and reporting by persons who own or operate public water supply systems;

(d) requiring public notice to all users of a public water supply system when a person has been granted a variance or exemption or is in violation of this part or a rule or order issued pursuant to this part;

(e) the siting, construction, operation, and modification of a public water supply system or public sewage system;

(f) the review of the technical, managerial, and financial viability capacity of a proposed public water

supply system or public sewage system, as necessary to ensure the capability of the system to meet the requirements of this part;

(g) the collection and analysis of samples of water used for drinking or domestic purposes;

(h) the issuance of variances and exemptions as authorized by the federal Safe Drinking Water Act and this part;

(i) administrative enforcement procedures and administrative penalties authorized under this part;

(j) standards and requirements for the review and approval of programs that may be voluntarily submitted by suppliers of public water supply systems to prevent water supply contamination from a cross-connection, including provisions to exempt cross-connections from the standards and requirements if all connected systems are department-approved public water supply systems; and

(k) any other requirement necessary for the protection of public health as described in this part.

(3) Board rules must provide for the following:

(a) a water supply or water distribution facility reviewed and approved by the department is not subject to changes in department design and construction criteria for a period of 36 months after written approval of the facility is issued by the department;

(b) except for facilities subject to permit requirements under Title 75, chapter 5, part 4, a system of water supply, drainage, wastewater, or sewage reviewed and approved under this section is not subject to changes in department design or construction criteria for a period of 36 months after written approval is issued by the department;

(c) plans and specifications for a portion of a facility or system subject to a 36-month limit on criteria changes pursuant to subsections (3)(a) and (3)(b), but not constructed within the 36-month timeframe, must be resubmitted for department review and approval before construction of that portion of the facility;

(d) the provisions of this subsection (3) may not limit an applicant's ability to alter a proposed project that is otherwise in conformance with applicable laws, rules, standards, and criteria.

(4) The board may issue orders necessary to fully implement the provisions of this part."

Section 4. Section 75-6-104, MCA, is amended to read:

"75-6-104. Duties of department. The department shall:

(1) upon its own initiative or complaint to the department, to the mayor or health officer of a municipality, or to the managing board or officer of a public institution, make an investigation of alleged pollution of a water

supply system and, if required, prohibit the continuance of the pollution by ordering removal of the cause of pollution;

(2) have waters examined to determine their quality and the possibility that they may endanger public health;

(3) consult and advise authorities of cities and towns and persons having or about to construct systems for water supply, drainage, wastewater, and sewage as to the most appropriate source of water supply and the best method of ~~assuring~~ ensuring its quality;

(4) advise persons as to the best method of treating and disposing of their drainage, sewage, or wastewater with reference to the existing and future needs of other persons and to prevent pollution;

(5) consult with persons engaged in or intending to engage in manufacturing or other business whose drainage or sewage may tend to pollute waters as to the best method of preventing pollution;

(6) collect fees, as described in 75-6-108, for services and deposit the fees collected in the public drinking water special revenue fund established in 75-6-115;

(7) establish and maintain experiment stations and conduct experiments to study the best methods of treating water, drainage, wastewater, and sewage, ~~and industrial waste~~ to prevent pollution, including investigation of methods used in other states;

(8) enter on premises at reasonable times to determine sources of pollution or danger to water supply systems and whether rules and standards of the board are being obeyed;

(9) enforce and administer the provisions of this part;

(10) establish a plan for the provision of safe drinking water under emergency circumstances;

(11) maintain an inventory of public water supply systems and establish a program for conducting sanitary surveys; and

(12) enter into agreements with local boards of health ~~wherever~~ whenever appropriate for the performance of surveys and inspections under the provisions of this part."

Section 5. Section 75-6-112, MCA, is amended to read:

"75-6-112. Prohibited acts. A person may not:

~~(1) discharge sewage, drainage, industrial waste, or other wastes that will cause pollution of state waters used by a person for domestic use or as a source for a public water supply system or water or ice company;~~

~~—— (2) discharge sewage, drainage, industrial waste, or other waste into state waters or on the banks of~~

state waters or into an abandoned or operating water well unless the sewage, drainage, industrial waste, or other waste is treated as prescribed by the board;

(3)(1) commence or continue construction, alteration, extension, or operation of a system of water supply or water distribution that is ~~designed~~ intended to be used as a public water supply system or a system of sewer, drainage, waste, or sewage disposal that is ~~designed~~ intended to be used as a public sewage system or industrial waste discharge system before the person submits to the department necessary maps, plans, and specifications for its review and the department approves those maps, plans, and specifications; ~~However, any facility reviewed by the department under Title 75, chapter 5, is not subject to the provisions of this section.~~

(4)(2) operate or maintain a public water supply system that exceeds a maximum contaminant level established by the board unless the person has been granted or has an application pending for a variance or exemption pursuant to this part;

(5)(3) violate any provision of this part or a rule adopted under this part; or

(6)(4) violate any condition or requirement of an approval issued pursuant to this part."

Section 6. Section 75-6-120, MCA, is amended to read:

"75-6-120. ~~Montana wellhead~~ Wellhead and source water protection program programs -- voluntary petitions. (1) The federal Safe Drinking Water Act, including 42 U.S.C. 300h-7 and 300j-13, enables the department to administer ~~a wellhead protection program and source water assessment programs~~ that ~~involves~~ involve delineation of the boundaries of the assessment areas from which a public water system receives supplies of drinking water, certification of local wellhead source water protection areas, assessment of source water susceptibility to regulated contaminants, and review of wellhead source water protection area ordinances. In administering ~~this program~~ these programs, the department may perform only those functions provided for by the federal Safe Drinking Water Act and this section.

(2) A supplier of a public water supply system may voluntarily submit for department review and approval a petition to establish a ~~wellhead~~ source water protection program for the system.

(3) The department may certify a ~~wellhead~~ source water protection area upon:

(a) receipt of a petition by a supplier for a public water supply system; and

(b) making a determination that the ~~wellhead~~ source water protection area meets criteria and thresholds for certification established by the Montana ~~wellhead~~ source water protection program.

(4) (a) The governing body of the county in which a ~~wellhead~~ source water protection area or areas exist

may adopt an ordinance to regulate, control, and prohibit conditions that threaten the quality of water used within the ~~wellhead~~ source water protection area or areas.

(b) Prior to adopting a ~~wellhead~~ source water protection area ordinance, the governing body shall confer with the supplier of the public water supply system and shall then submit the ordinance to the department for review and verification that the ordinance is consistent with the requirements of this chapter.

(c) A ~~wellhead~~ source water protection area ordinance must be adopted using the procedures described in 7-5-103 through 7-5-107.

(5) (a) An ordinance adopted under subsection (4) is limited in applicability to the certified ~~wellhead~~ source water protection area or areas within the county.

(b) For a ~~wellhead~~ source water protection area that is located in two or more counties, the proposed ~~wellhead~~ source water protection area ordinance must be adopted by each county in order for the ordinance to be effective.

(6) A ~~wellhead~~ source water protection area ordinance adopted under this section may not conflict with and may not duplicate any other federal, state, or local law or regulation, including but not limited to zoning, fire codes, hazardous waste regulation under Title 75, chapter 10, part 4, or pesticide regulation under Title 80, chapter 8."

- END -

I hereby certify that the within bill,
SB 0446, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2019.

Speaker of the House

Signed this _____ day
of _____, 2019.

SENATE BILL NO. 446
INTRODUCED BY PERRY

AN ACT GENERALLY REVISING THE LAWS RELATING TO REVIEW OF PUBLIC WATER AND SEWAGE SYSTEMS BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY; REMOVING INDUSTRIAL WASTE DISCHARGE SYSTEMS FROM DEPARTMENT REVIEW; REMOVING THE EXEMPTION FROM DEPARTMENT REVIEW OF PUBLIC SEWAGE SYSTEMS THAT HAVE WATER QUALITY DISCHARGE PERMITS; EXPRESSLY AUTHORIZING ADOPTION OF MANAGERIAL AND TECHNICAL CAPACITY RULES; AUTHORIZING THE ADOPTION OF SOURCE WATER PROTECTION REQUIREMENTS; ELIMINATING PROVISIONS THAT DUPLICATE PROVISIONS CONTAINED IN THE WATER QUALITY STATUTES; AND AMENDING SECTIONS 37-42-102, 75-6-102, 75-6-103, 75-6-104, 75-6-112, AND 75-6-120, MCA.

MINUTES

**MONTANA SENATE
60th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES AND ENERGY

Call to Order: By **CHAIRMAN GREG LIND**, on February 14, 2007 at 3:30 P.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Greg Lind, Chairman (D)
Sen. Aubyn Curtiss (R)
Sen. Kelly Gebhardt (R)
Sen. Christine Kaufmann (D)
Sen. Gary L. Perry (R)
Sen. Bill Tash (R)
Sen. Mitch Tropila (D)
Sen. David E. Wanzienried (D)

Members Excused:

Sen. Dan Harrington (D)

Members Absent: None.

Staff Present: Claudia Johnson, Committee Secretary
Joe Kolman, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 446, 2/12/2007; SB 431,
2/8/2007; SB 425, 2/7/2007; SB 407,
2/9/2007
Executive Action: SB 19, SB 218, SB 442, SB 446, SB
391

00:22:34 Chairman Lind

HEARING ON SB 446

Opening Statement by Sponsor:

00:24:10 SEN. GARY PERRY (R), SD 35, opened the hearing on SB 446, Revise water law re: industrial waste discharge.

Proponents:

00:25:19 John Dilliard, Department of Environmental Quality (DEQ)

EXHIBIT(nas33a01)

Opponents: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

00:32:23 Sen. Kaufmann to John Dilliard, DEQ

Closing by Sponsor:

00:34:34 Sen. Perry

HEARING ON SB 431

Opening Statement by Sponsor:

00:35:10 SEN. GREG LIND (D), SD 50, opened the hearing on SB 431, Revise standards for hot springs.

EXHIBIT(nas33a02)

Proponents:

00:38:20 Richard Simmons, Self

EXHIBIT(nas33a03)

Opponents: None.

Informational Testimony:

00:48:26 Kathy McCarthy, Department of Public Health and Human Services (DPHHS)

Questions from Committee Members and Responses:

00:48:50 Sen. Perry to Sen. Lind

00:51:17 Sen. Perry to Kathleen McCarthy, DPHHS

Closing by Sponsor:

00:52:52 Sen. Lind

HEARING ON SB 425

Opening Statement by Sponsor:

00:54:43 **SEN. VERDELL JACKSON (R), SD 5**, opened the hearing on **SB 425**, Generally revise water use act.

[EXHIBIT\(nas33a04\)](#)

[EXHIBIT\(nas33a05\)](#)

Proponents:

01:05:49 John Bloomquist, Self

01:13:18 Glenn Oppel, Montana Association of Realtors (MAR)

[EXHIBIT\(nas33a06\)](#)

Opponents:

01:16:23 Jerry McLaughlin, DNRC

01:20:10 Mike Murphy, Montana Water Resource Association

01:23:07 Holly Franz, PPL Montana

01:25:43 Bob Lane, Chief Legal Counsel, Department of Fish, Wildlife and Parks (FWP)

01:28:32 Nick Seeburg, Director, Gallatin National Irrigators

01:30:38 Walt Sales, Gallatin Irrigator

01:32:28 George Alberta, Commissioner, Gallatin Irrigators

01:33:30 Stan Bradshaw, Montana Trout Unlimited

01:34:13 Brenda Lindlief-Hall, Attorney, Water Users Association

Informational Testimony: None.

Questions from Committee Members and Responses:

01:35:28 Sen. Tash to Bob Lane, FWP

01:37:00 Sen. Tash to Jerry McLaughlin, DNRC

01:39:53 Sen. Tash to Glenn Oppel, MAR

01:41:27 Sen. Lind to John Bloomquist

01:42:13 Sen. Lind to Glenn Oppel, MAR

Closing by Sponsor:

01:43:21 Sen. Jackson

HEARING ON SB 407

Opening Statement by Sponsor:

01:48:37 **SEN. KEITH BALES (R), SD 20**, opened the hearing on **SB 407**, Authorizing emergency discharges of coal bed methane water.

[**EXHIBIT\(nas33a07\)**](#)

[**EXHIBIT\(nas33a08\)**](#)

[**EXHIBIT\(nas33a09\)**](#)

Proponents:

01:56:36 John Morris, Rancher

01:58:02 John Bloomquist, Montana Stockgrowers Association

01:58:35 Connie Morris, Rancher

[**EXHIBIT\(nas33a10\)**](#)

02:03:57 Mark Moreland, Self

02:05:02 Dave Galt, Executive Director, Montana Petroleum Association

02:05:29 Don McDowell, Rancher

02:06:19 Matt Cole, Self

02:07:43 Gordon Decker, Rancher

EXHIBIT(nas33a11)

02:11:13 Jon Metropoulos, Fidelity Exploration and Production Company

02:12:08 Tom Ebzery, Nance Petroleum Company

02:12:57 Don Allen, Western Environmental Trade Association (WETA)

02:13:34 Willie Duffield, Executive Director, Montana Association of Oil, Gas, and Coal Counties, Inc.

Opponents:

02:14:06 Brenda Lindlief-Hall, Water Users Association

02:17:23 Rick Moore, Northern Plains Resource Council (NPRC)

EXHIBIT(nas33a12)

02:19:38 Ana Pederson, Montana Environmental Information Center (MEIC)

Informational Testimony: None.

Questions from Committee Members and Responses:

02:20:49 Sen. Tash to Gordon Decker, Self

02:23:19 Sen. Curtiss to Rick Moore, NPRC

02:24:05 Sen. Gebhardt to Sen. Bales

02:26:05 Sen. Kaufmann to Mark Moreland, Rancher

02:28:03 Sen. Kaufmann to Brenda Lindlief-Hall, Water Users Association

02:29:14 Sen. Kaufmann to Tim Hall, Attorney, Department of
Natural Resources and Conservation (DNRC)

02:30:32 Sen. Kaufmann to Teri McLaughlin, DNRC

02:31:52 Sen. Wanzenried to Sen. Bales

02:37:52 Sen. Perry to Sen. Bales

02:42:40 Sen. Tropila to Sen. Bales

02:45:37 Sen. Curtiss to Sen. Bales

02:47:14 Sen. Kaufmann to Rick Moore, NPRC

02:48:36 Sen. Lind to Gordon Decker

02:51:04 Sen. Lind to Tim Hall, DNRC

02:52:07 Sen. Lind to Sen. Bales

Closing by Sponsor:

02:54:51 Sen. Bales

Discussion:

03:07:24 Sen. Lind to Joe Kolman

EXECUTIVE ACTION ON SB 19

03:07:44 **Motion:** SEN. PERRY moved that SB 19 DO PASS.

Discussion:

03:08:26 Sen. McGee

03:10:40 Sen. Lind

03:10:48 Sen. Kaufmann

03:12:32 Sen. Gebhardt

03:12:57 Sen. Kaufmann

03:14:46 Sen. Gebhardt

03:15:28 Sen. Kaufmann

03:16:49 Sen. Perry

03:17:27 Sen. Perry to Sen. McGee

03:21:41 Sen. Perry

03:22:10 Sen. Lind

03:25:58 Sen. Wanzenried

03:27:22 **Motion/Vote:** SEN. WANZENRIED moved that SB 19 DO PASS.
Motion carried 5-4 by roll call vote with SEN.
HARRINGTON, SEN. KAUFMANN, SEN. LIND, and SEN.
WANZENRIED voting no. SEN. HARRINGTON voted by proxy.

Discussion:

03:28:25 Sen. Gebhardt

EXECUTIVE ACTION ON SB 218

03:30:09 **Motion:** SEN. LIND moved that SB 218 DO PASS.

Discussion:

03:30:37 **Motion:** SEN. LIND moved that AMENDMENT SB021801.AJK BE
ADOPTED.

Discussion:

03:32:27 Sen. Lind

03:32:48 Joe Kolman

03:36:41 Sen. Lind

03:36:56 **Motion/Vote:** SEN. PERRY CALLED THE QUESTION ON
AMENDMENT SB021801.AJK. Motion carried unanimously by
voice vote. SEN. HARRINGTON voted by proxy.

03:37:14 **Motion:** SEN. LIND moved that SB 218 DO PASS AS
AMENDED.

Discussion:

03:38:18 Sen. Gebhardt

03:39:46 Sen. Lind

03:40:57 Motion/Vote: SEN. TASH CALLED THE QUESTION ON SB 218.
Motion carried 8-1 by voice vote with SEN. CURTISS
voting no. SEN. HARRINGTON voted by proxy.

EXECUTIVE ACTION ON SB 442

03:41:27 Motion: SEN. KAUFMANN moved that SB 442 DO PASS.

Discussion:

03:42:33 Sen. Gebhardt

03:43:06 Sen. Kaufmann to Joe kolman

03:43:49 Motion: SEN. KAUFMANN moved that AMENDMENT
SB044201.AJK BE ADOPTED.

EXHIBIT (nas33a13)

Discussion:

03:44:05 Joe Kolman, LSD

03:44:39 Vote: Motion that AMENDMENT SB044201.AJK BE ADOPTED
carried unanimously by voice vote. SEN. HARRINGTON
voted by proxy.

03:44:57 Motion/Vote: SEN. KAUFMANN moved that SB 442 DO PASS
AS AMENDED. Motion carried unanimously by voice vote.
SEN. HARRINGTON voted by proxy.

EXECUTIVE ACTION ON SB 446

03:45:45 Motion: SEN. PERRY moved that SB 446 DO PASS.

Discussion:

03:46:30 Motion/Vote: SEN. PERRY CALLED THE QUESTION ON SB 446.
Motion carried unanimously by voice vote. SEN.
HARRINGTON voted by proxy.

EXECUTIVE ACTION ON SB 391

03:47:46 Motion: SEN. WANZENRIED moved that SB 391 DO PASS.

Discussion:

03:50:23 Sen. Perry to Joe Kolman, LSD

03:50:40 Sen. Perry to Sen. Lind

03:50:56 **Substitute Motion/Vote:** SEN. GEBHARDT made a substitute motion that SB 391 BE TABLED. Substitute motion failed 4-5 by roll call vote with SEN. CURTISS, SEN. GEBHARDT, SEN. PERRY, and SEN. TASH voting aye. SEN. HARRINGTON voted by proxy.

03:51:24 Sen. Wanzenried withdrew his motion on SB 391.

Discussion:

03:52:31 Chair Lind

ADJOURNMENT

Adjournment: 7:50 P.M.

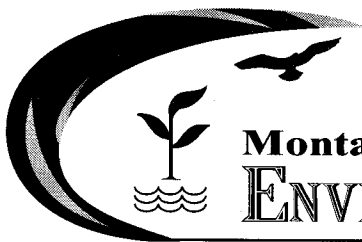
SEN. GREG LIND, Chairman

CLAUDIA JOHNSON, Secretary

GL/cj

Additional Exhibits:

EXHIBIT ([nas33aad.pdf](#))



Montana Department of
ENVIRONMENTAL QUALITY

SENATE BILL NO. 446
DATE 2-14-07
SB 446

Brian Schweitzer, Governor

P.O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • www.deq.mt.gov

SB 446

**Department of Environmental Quality Testimony
Senate Natural Resources Committee
February 14, 2007**

BACKGROUND

PWS Review Exemption

The Water Quality Act requires a permit for the discharge of sewage or industrial wastes to state waters. The Water Quality Act and rules adopted there under do not require an engineering review or an approval of plans and specifications for a public wastewater system that must obtain discharge permit. The Public Water Supply Act, however, requires public wastewater systems to meet certain engineering design standards as adopted by the Board of Environmental Review in Circulars DEQ-2 (Municipal Wastewater) and DEQ-4 (Subsurface Wastewater Systems). Approval must be obtained prior to construction or operation

In 1995 the Public Water Supply Act was amended to include the exemption

"...However, any facility reviewed by the department under Title 75, chapter 5, is not subject to the provisions of this section."

At that time it was believed that the reviews performed under the Water Quality Act and Public Water Supply Act were duplicative and unnecessary. In addition, industrial discharges which did not co-mingle with domestic sewage were also subject to Public Water review even though the adopted standards did not directly apply to industrial discharges.

The Department believes both Public Water plan and specification review and approval and Water Quality discharge permitting are important functions necessary to protect public health and the environment when domestic sewage is involved. While the Water Quality permit assures that the discharge into state waters will not significantly impact or degrade the quality of the water, the Public Water review assures that the system is adequately sized, constructed to standard specifications, and adequately operated to safely meet the treatment capacity needed for the protection of public health.

Despite the exemption in the statute, most systems that fall under this category are still reviewed by the department. Larger municipal wastewater systems usually obtain funding assistance or low-interest loans to pay for construction from state and federal funding programs. Under the funding requirements, these discharging facilities are required to comply with the design standards and are given an engineering design review that the Public Water Supply Act exemption would not require. Additionally, subdivision regulations specifically require proposed wastewater systems to meet the engineering standards established in state regulations and are reviewed even though the Public Water Supply Act exempts dischargers.

With this bill the Department proposes to continue its review of plans and specifications for the domestic portion of a combined domestic/industrial system up to the point the

wastes are mixed. Purely industrial waste or combined systems after mixing will continue to require a Water Quality Act discharge permit but will not be subject to review under the Public Water Supply Act.

Technical and Managerial Capacity

The Environmental Protection Agency requires DEQ to certify that we have authority to adopt capacity development rules that pertain to financial, technical, and managerial functions. The penalty for failure to certify this authority is significant reduction in Drinking Water SRF funds. The authority in state law to adopt financial capacity rules is express. The authority to adopt rules pertaining to technical and managerial functions is not. The Board of Environmental Review has authority to adopt rules for operation of public water supplies, thus DEQ probably can claim the necessary authority for technical functions. The same argument can be made for managerial functions, although it is a bit more tenuous. DEQ Chief Legal Counsel advises that if the department proposes other changes to the Public Water Supply Act, we include in those changes an amendment to 75-6-103(1) to expressly add rulemaking authority for technical and managerial functions.

Surface Water Source Protection

The original Montana Wellhead Protection Program was developed to meet the requirements of the 1986 federal safe drinking water act (SDWA). Title 75, Chapter 6 MCA was modified in 1995 to reflect the 1986 law. In 1996, amendments were made to the federal SDWA. The 1996 SDWA requires states to develop a source water protection program. The term "source water" is reflective of the broader application of the program that is now required including both surface water in addition to ground water. From a practical standpoint it means that the concept of source water protection is applied to all sources of drinking water and not just well water. Approximately three-percent of public water supplies are from surface water sources.

EXAMPLES

Some examples which highlight the importance of plan and specification review are listed below. None of these issues would have been discovered if review had been limited solely to Water Quality Act permitting.

Yellowstone County, pressure-dosed drainfield, WQA permit for subsurface discharge of greater than 5,000 gpd.

- Difficulty in determining average and peak flow demands
- Septic tank insufficiently sized
- Absorption trenches sited too close to surface water and inadequately sized

Flathead County, Sequencing Batch Reactor treatment with surface water discharge and spray irrigation, WQA permit for surface water discharge.

- Inadequate lagoon aeration, affecting odors
- Insufficient operational safeguards
- Excessive quality of wastewater for spray irrigation was proposed
- Treatment critical to discharging effluent meeting standards to Middle Fork of Flathead River

Cascade County, pressure-dosed drainfield, WQA permit for subsurface discharge of greater than 5,000 gpd.

- Septic tank design flawed (inlet baffle and effluent filter elevation, inadequate air space)
- Inadequately sized grease trap, possibly resulting in high-strength waste
- Did not meet minimum standards for depth of drain rock or cover material
- Inadequately sized dose pump

SECTION-BY-SECTION DESCRIPTION

Section 1 amends 37-42-102 (6) and (7) by adding definitions of "Industrial waste" and "Industrial waste discharge system" to the Water and Wastewater Treatment Plant Operator Act. These definitions were previously included in this Act by reference to 75-6-102, but will be deleted with this bill. They must be re-inserted in 37-42-102 to retain the requirement for operator certification for industrial wastewater treatment plants.

Section 2 amends 75-6-102 by changing the definition of "certified wellhead protection area" to "certified source water protection area" to allow for voluntary protection programs of surface water as well as groundwater systems (see Section 6)

Section 2 also removes the definition of "industrial water discharge system". The requirement for plan and specification review of "industrial waste discharge system" will be deleted from 75-6-112 with this bill so the definition is no longer necessary.

Section 3 amends 75-6-103 by allowing the Board of Environmental Review to adopt rules and standards for the review of the technical and managerial capacity of a proposed public water or wastewater system as opposed to solely financial capacity.

Section 4 amends 75-6-104 to remove "industrial waste" from Department authority and responsibility under the Public Water Supply Act.

Section 5 amends 75-6-112 by removing prohibitions from the Public Water Supply Act duplicated in the Water Quality Act.

Section 5 also removes the exemption from plan and specification review of facilities subject to WQA permitting.

Section 6 amends 75-6-120 by changing references of "Wellhead protection program" to "Wellhead and source water protection program" to allow for voluntary protection programs of surface water as well as groundwater systems.

ROLL CALL

NATURAL RESOURCES

[illegible]



SENATE STANDING COMMITTEE REPORT

February 15, 2007

Page 1 of 1

Mr. President:

We, your committee on **Natural Resources and Energy** recommend that **Senate Bill 19** (first reading copy -- white) **do pass**.

Signed: _____


Senator Greg Lind, Chair

- END -

Committee Vote:

Yes 5, No 4

Fiscal Note Required _____



341009SC.spb



SENATE STANDING COMMITTEE REPORT

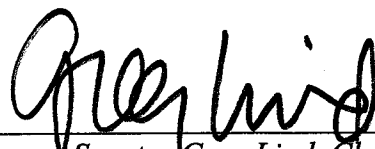
February 15, 2007

Page 1 of 3

Mr. President:

We, your committee on **Natural Resources and Energy** recommend that **Senate Bill 218** (first reading copy -- white) **do pass as amended**.

Signed: _____


Senator Greg Lind, Chair

And, that such amendments read:

1. Page 1, line 9 through line 20.

Strike: line 9 through line 20 in their entirety

2. Page 1, line 24.

Strike: "and 2"

Insert: "through 4"

3. Page 1, line 26.

Following: "(2)"

Insert: "(a)"

4. Page 1.

Following: line 27

Insert: "(b) The term does not include a well regulated under Title 82, chapter 11, in which carbon dioxide is injected for the purpose of enhancing the recovery of oil and gas."

5. Page 2, line 10.

Following: "The board shall"

Insert: "hire a consultant to assist in developing rules, and after consulting with the board of oil and gas conservation and the department of natural resources and conservation, the board shall"

6. Page 2, line 11.

Strike: "and 2"

Insert: "through 4"

7. Page 2, line 26.

Committee Vote:

Yes 8, No 1

Fiscal Note Required — *K1*

341011SC.spb

Following: "furnishing"

Strike: "and"

Insert: ", "

Following: "updating"

Insert: ", and release"

8. Page 2, line 27.

Strike: "and 2"

Insert: "through 4"

9. Page 3, line 1.

Strike: "and 2"

Insert: "through 4"

10. Page 3, line 2.

Following: "fines of"

Insert: "\$75 a day"

11. Page 3, line 2 through line 3.

Following: "a day" on line 2

Strike: "from the" on line 2 through "established" on line 3

Insert: "for each violation of any rule or order of the board or a provision of this section. Each day of violation constitutes a separate violation"

12. Page 3, line 4.

Following: line 3

Insert: "NEW SECTION. Section 3. Fees and penalties. Any fees or penalties collected pursuant to rules adopted under [section 2] must be deposited in the state special revenue fund provided for in 17-2-102 for use by the department of environmental quality to administer [sections 1 through 4]."

Insert: "NEW SECTION. Section 4. Coordination with board of oil and gas conservation. (1) A well regulated under Title 82, chapter 11, in which carbon dioxide is injected for the purpose of enhancing the recovery of oil and gas may be converted to a carbon dioxide sequestration well.

(2) The board shall coordinate the development of rules with the board of oil and gas conservation with regard to the conversion of wells referred to in subsection (1) to carbon dioxide sequestration wells.

(3) Wells converted to carbon dioxide sequestration wells pursuant to this section are subject to rules adopted under [section 2]."

Renumber: subsequent section

13. Page 3, line 5.

Strike: "and 2"

Insert: "through 4"

14. Page 3, line 6.
Strike: "and 2"
Insert: "through 4"

- END -



SENATE STANDING COMMITTEE REPORT

February 15, 2007

Page 1 of 1

Mr. President:

We, your committee on **Natural Resources and Energy** recommend that **Senate Bill 442** (first reading copy -- white) **do pass as amended.**

Signed: _____

A handwritten signature in cursive script, appearing to read "Greg Lind", written over a horizontal line.

Senator Greg Lind, Chair

And, that such amendments read:

1. Page 1, line 19.

Following: "minerals"

Insert: "or materials"

- END -

Committee Vote:

Yes 9, No 0

Fiscal Note Required Kf

341012SC.spb



SENATE STANDING COMMITTEE REPORT

February 15, 2007

Page 1 of 1

Mr. President:

We, your committee on **Natural Resources and Energy** recommend that **Senate Bill 446** (first reading copy -- white) **do pass**.

Signed: _____


Senator Greg Lind, Chair

- END -

Committee Vote:

Yes 9, No 0

Fiscal Note Required _____



341010SC.spb

ROLL CALL VOTE

DATE 2-14-07 BILL NO. SB 19 NUMBER 5-4
MOTION: DO PASS

PASSED

[illegible]

ROLL CALL VOTE

Failed

[illegible]

SENATE PROXY FORM

According to Senate Rule 30-70 (13) (f) , a committee member may vote by proxy using a standard form.

PROXY VOTE

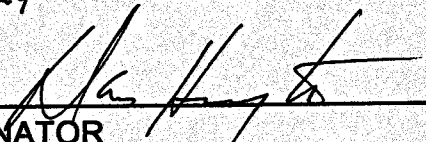
I, the undersigned, hereby authorize Senator LIANZENRIED

to vote my proxy on any issue before the Senate _____

NATURAL RESOURCES & ENERGY Committee

held on 14 FEBRUARY, 2007.

HAPPY VALENTINES DAY!



SENATOR
STATE OF MONTANA

**MONTANA STATE SENATE
2007 LEGISLATURE**

**VISITOR REGISTER
NATURAL RESOURCES**

DATE 2-14-07

BILLS BEING HEARD TODAY SB 407, 425, 431, 446

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Kathleen McCarthy	444-4735	DPHHS	431	informational	
Brenda Lindlie-Hall	442-3261	Tongue River Water	425		✓
Mark Moreland	757-2294	Rancholme Cattle Co	407	✓	
Glenn Appel	443-4032	MAR	425	✓	
Rick Moore	696-0931	NORTHERN PLAINS	407		✓
Ch. Mathy	442-8560	Fidelity	407	X	
Tom Ebozema	441-7531	Devon	407	X	
Mark Angeres	449-9933	MT Trout Unlimited	425		X
Stella Brubaker	449-9922	T.U.	425		X
Mark Seppala	763-4594	Amor & Brall. Co. Inc	425		X
Walt Sells	292-7475	Sales Ranch	425		X
GEORGE ALBERTDA	580-5555	GALLATIN RIVER COTTAGE	425		X
Holly Franz	442-2005	PPL Montana	425		X
Troy Blunt	654-2429	Phillips County	407	✓	
Richard Dunbar	654-2429	Phillips County	407	✓	
Mike Murphy	235-4555	MWRA	SB425		X
William Duffield	939-4443	MAOAC Counties	SB407	X	
Dan McDowell	436-2032	Self	SB407	X	
Cheryl McDowell	436-2032	Self	SB407	✓	
Connie MORRIS	484-3485	Self	SB 425	X	
Don Dilliland	444-2409	MT DEQ	SB446	X	
DAVE Galt	442-7582	MPA	SB407	X	

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

NATURAL RESOURCES AND ENERGY

DATE 2-14-07

BILLS BEING HEARD TODAY SB 446, SB 431, SB 425,
SB 407

PLEASE PRINT

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 60th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Vice Chairman Ralph Heinert, on April 2, 2007
at 3:35 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Walter McNutt, Chairman (R)
Rep. Ron Erickson, Vice Chairman (D)
Rep. Ralph Heinert, Vice Chairman (R)
Rep. Duane Ankney (R)
Rep. Debby Barrett (R)
Rep. Jill Cohenour (D)
Rep. Sue Dickenson (D)
Rep. Betsy Hands (D)
Rep. Gordon R. Hendrick (R)
Rep. Carol Lambert (R)
Rep. Scott Mendenhall (R)
Rep. JP Pomnichowski (D)
Rep. John (Jack) W. Ross (R)
Rep. Veronica Small-Eastman (D)
Rep. Kendall Van Dyk (D)
Rep. Chas Vincent (R)

Members Excused: None

Members Absent: None

Staff Present: Krista Lee Evans, Legislative Branch
Nancy Kraft, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:	SB 324, 3/29/2007; SB 376, 3/29/2007; SB 446, 3/26/2007; SB 450, 3/29/2007
Executive Action:	SB 218; SJR 20; SB 324; SB 450; SB 147; SB 431

HEARING ON SB 446

Opening Statement by Sponsor:

00:01:51 Sen. Gary Perry (R), SD 35, opened the hearing on SB 446, Revise water law re: industrial waste discharge.

Proponents' Testimony:

00:02:23 Jon Dilliard, Department of Environmental Quality
[EXHIBIT](#)(nah70a01)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:06:30 Rep. Mendenhall
00:08:42 Mr. Dilliard
00:08:55 Rep. Cohenour
00:09:12 Mr. Dilliard

Closing by Sponsor:

00:09:51 Sen. Perry

HEARING ON SB 324

Opening Statement by Sponsor:

00:10:35 Sen. Verdell Jackson (R), SD 5, opened the hearing on SB 324, Revise ground water data collection procedures.

Proponents' Testimony:

00:13:07 Gerald Mueller, Facilitator, Clark Fork River Basin
Task Force
[EXHIBIT](#)(nah70a02)
00:16:05 Holly Franz, Pacific Power and Light Montana
00:16:26 Robin Shropshire, Hydrogeologist
00:18:21 John Tubbs, Department of Natural Resources and
Conservation
00:18:52 Mike Murphy, Montana Water Resources Association

Opponents' Testimony: None

Informational Testimony:

00:19:33 Tom Patton, Montana Bureau of Mines and Geology

Questions from Committee Members and Responses:

00:20:05 Rep. Erickson
00:20:41 Mr. Tubbs
00:21:50 Rep. Lambert
00:22:10 Sen. Jackson
00:22:16 Rep. Cohenour
00:22:50 Ms. Shropshire
00:23:25 Rep. Dickenson
00:23:54 Mr. Tubbs
00:24:16 Rep. Mendenhall
00:24:45 Mr. Patton
00:25:48 Rep. Lambert
00:26:28 Sen. Jackson
00:27:43 Rep. Cohenour
00:28:08 Mr. Patton
00:28:26 Rep. Heinert
00:29:02 Mr. Tubbs

Closing by Sponsor:

00:29:58 Sen. Perry

HEARING ON SB 376

Opening Statement by Sponsor:

00:30:15 Sen. Verdell Jackson (R), SD 5, opened the hearing on
SB 376, Revise water marketing law.

Proponents' Testimony:

00:37:11 Gerald Mueller, Facilitator, Clark Fork River Basin
Task Force

EXHIBIT (nah70a03)

00:40:27 Holly Franz, Pacific Power and Light, Montana
00:41:36 Mike Murphy, Montana Water Resources Association
00:42:07 John Tubbs, Department of Natural Resources and
Conservation

Opponents' Testimony: None

Informational Testimony:

00:43:56 Mark Reller, Bonneville Power Administration

Questions from Committee Members and Responses:

00:44:23 Rep. Lambert
00:44:45 Sen. Jackson
00:45:01 Rep. Van Dyk
00:45:21 Mr. Tubbs
00:46:10 Rep. Erickson
00:46:41 Mr. Mueller
00:48:46 Rep. Barrett
00:49:12 Ms. Franz
00:49:40 Rep. Heinert
00:51:39 Sen. Jackson

00:52:50 Rep. McNutt arrived at the meeting.

Closing by Sponsor:

00:53:53 Sen. Jackson

HEARING ON SB 450

Opening Statement by Sponsor:

00:56:08 Sen. Carol Juneau (D), SD 8, opened the hearing on SB 450, Extend water compact commission.

Proponents' Testimony:

01:01:04 John Carter, Attorney, Confederated Salish and Kootenai Tribes (CSKT)

EXHIBIT (nah70a04)

01:11:35 James Steele, Jr., Chairman, CSKT
01:13:18 Carle Lankford, Vice-Chairman, CSKT
01:13:26 Steve Lozar, Tribal Council, CSKT
01:14:19 Ron Trahan, Tribal Council, CSKT
01:14:39 Michel Kenmille, CSK

Opponents' Testimony:

01:15:13 Susan Cottingham, Reserved Water Rights Compact Commission
01:21:20 John Metropoulos, Attorney, Flathead Joint Board of Control
01:25:05 Mike Murphy, Montana Water Resources Association

Informational Testimony: None

Questions from Committee Members and Responses:

01:26:31 Rep. Van Dyk
 01:26:54 Sen. Juneau
 01:27:04 Mr. Carter
 01:28:53 Rep. Erickson
 01:31:24 Mr. Carter
 01:32:17 Rep. Dickenson
 01:32:51 Mr. Metropoulos
 01:33:17 Ms. Cottingham

Closing by Sponsor:

01:34:52 Sen. Juneau

Questions from Committee Members and Responses: (Continued)

01:36:02 Rep. Dickenson
 01:36:32 Mr. Steele
 01:38:17 Rep. Mendenhall
 01:40:06 Mr. Carter
 01:41:22 Rep. Barrett
 01:44:21 Mr. Carter
 01:45:14 Rep. McNutt
 01:45:25 Ms. Cottingham

01:47:12 Break

EXECUTIVE ACTION ON SB 218

02:34:47 **Motion:** Rep. Heinert moved that SB 218 **BE CONCURRED IN.**

02:35:14 **Motion/Vote:** Rep. Heinert moved that SB 218 **BE AMENDED.** Motion carried 15-1 by voice vote with Rep. Barrett voting no. Rep. Ankney voted by proxy.

EXHIBIT (nah70a05)

02:36:29 **Motion:** Rep. Erickson moved that SB 218 **BE CONCURRED IN AS AMENDED.**

02:36:40 **Substitute Motion/Vote:** Rep. Mendenhall made a substitute motion that SB 218 **BE TABLED.** Substitute motion carried 9-7 by roll call vote with Reps. Cohenour, Dickenson, Erickson, Hands, Pomnichowski, Small-Eastman, and Van Dyk voting no. Rep. Ankney voted by proxy.

EXECUTIVE ACTION ON SJR 20

02:37:50 **Motion:** Rep. Dickenson moved to **RECONSIDER THE MOTION TO TABLE** SJR 20.

Discussion:

02:39:00 Rep. Erickson

02:39:55 **Vote:** Motion failed 7-8 by roll call vote of those present and voting with Reps. Cohenour, Dickenson, Erickson, Hands, Pomnichowski, Small-Eastman, and Van Dyk voting aye.

EXECUTIVE ACTION ON SB 324

02:41:16 **Motion:** Rep. Heinert moved that SB 324 **BE CONCURRED IN.**

02:41:25 **Motion:** Rep. Heinert moved that SB 324 **BE AMENDED.**
EXHIBIT(nah70a06)

Discussion:

02:41:47 Rep. Van Dyk

02:42:59 **Vote:** Motion carried unanimously by voice vote. Rep. Ankney voted by proxy.

02:43:21 **Motion/Vote:** Rep. Heinert moved that SB 324 **BE CONCURRED IN AS AMENDED.** Motion carried unanimously by voice vote. Rep. Ankney voted by proxy. Rep. Taylor will carry the bill.

EXECUTIVE ACTION ON SB 450

02:44:07 **Motion:** Rep. Heinert moved that SB 450 **BE CONCURRED IN.**

02:44:18 **Motion:** Rep. McNutt moved that SB 450 **BE AMENDED.**
EXHIBIT(nah70a07)

Discussion:

02:45:38 Rep. Hands

02:46:04 Rep. Erickson

02:46:19 Rep. McNutt

02:48:12 Rep. Cohenour

02:48:45 Rep. Small-Eastman

02:49:24 Rep. Dickenson

02:49:58 Rep. McNutt

02:50:25 Rep. Mendenhall

02:51:12 **Motion:** Rep. Erickson moved to **SEGREGATE ITEMS 5 AND 6 FROM ITEMS 1 THROUGH 4** of the Amendment for SB 450.

Discussion:

02:51:45 Rep. McNutt
02:52:05 Rep. Small-Eastman
02:52:21 Rep. McNutt
02:52:58 Rep. Heinert
02:53:18 Rep. Barrett
02:53:46 Susan Cottingham
02:54:45 Rep. Erickson

02:55:40 Rep. McNutt stated that without objection, Items 5 and 6 will be segregated from the Amendments.

Discussion:

02:56:05 Rep. Van Dyk
02:56:49 Rep. Vincent

02:57:06 **Vote:** Motion carried 11-5 by roll call vote on Items 1-4 with Reps. Cohenour, Dickenson, Erickson, Hands, and Small-Eastman voting no. Rep. Ankney voted by proxy.

Discussion:

02:58:12 Krista Evans
02:59:43 Rep. McNutt
02:59:49 Rep. Mendenhall
03:00:21 Rep. Heinert

03:00:52 **Vote:** Motion carried 12-4 by roll call vote on Items 5-6 with Reps. Cohenour, Erickson, Hands, and Small-Eastman voting no. Rep. Ankney voted by proxy.

03:01:56 **Motion/Vote:** Rep. Heinert moved that SB 450 BE **CONCURRED IN AS AMENDED**. Motion failed 8-8 by roll call vote with Reps. Ankney, Cohenour, Dickenson, Hands, Heinert, McNutt, Ross, and Small-Eastman voting aye. Rep. Ankney voted by proxy.

03:02:59 **Motion/Vote:** Rep. Mendenhall moved that SB 450 BE **TABLED**. Motion carried 10-6 by roll call vote with Reps. Cohenour, Dickenson, Erickson, Hands, Pomnichowski, and Small-Eastman voting no. Rep. Ankney voted by proxy.

03:05:48 **Motion:** Rep. Hands moved to **RECONSIDER THE MOTION TO TABLE** SB 450.

Discussion:

03:06:44 Rep. McNutt
03:07:25 Rep. Small-Eastman
03:07:31 Rep. Mendenhall

03:07:45 **Vote:** Motion failed 6-9 by roll call vote of those present and voting with Reps. Cohenour, Dickenson, Erickson, Hands, Pomnichowski, and Small-Eastman voting aye.

EXECUTIVE ACTION ON SB 147

03:08:46 **Motion/Vote:** Rep. Lambert moved to **RECONSIDER THE MOTION TO TABLE** SB 147. Motion carried 9-6 by roll call vote of those present and voting with Reps. Barrett, Heinert, Hendrick, McNutt, Mendenhall, and Vincent voting no.

Discussion:

03:11:18 **Motion:** Rep. Lambert moved that SB 147 **BE CONCURRED IN**.
03:11:36 **Motion:** Rep. Heinert moved that SB 147 **BE AMENDED**.
EXHIBIT (nah70a08)

Discussion:

03:11:50 Rep. Cohenour
03:13:12 Rep. Vincent
03:14:18 Rep. Lambert
03:15:07 Rep. Pomnichowski
03:16:25 Rep. Barrett

03:16:55 **Vote:** Motion failed 8-8 by roll call vote with Reps. Ankney, Heinert, Hendrick, Lambert, McNutt, Mendenhall, Ross, and Vincent voting aye. Reps. Ankney and Hands voted by proxy.

Discussion:

03:18:25 Rep. Erickson
03:19:15 Rep. Lambert
03:20:32 Rep. Vincent
03:21:34 Rep. Cohenour

03:21:53 **Vote:** Motion carried 9-7 by roll call vote with Reps. Ankney, Barrett, Heinert, Hendrick, McNutt, Mendenhall,

and Vincent voting no. Reps. Ankney and Hands voted by proxy. Rep. Lambert will carry the bill.

EXECUTIVE ACTION ON SB 431

03:23:59 **Motion/Vote:** Rep. Erickson moved that SB 431 **BE CONCURRED IN**. Motion carried 11-5 by roll call vote with Reps. Barrett, Dickenson, Pomnichowski, Van Dyk, and Vincent voting no. Reps. Ankney and Hands voted by proxy. Rep. Nooney will carry the bill.

Additional Exhibit:

Document pertaining to SB 452; Hearing 03/30/07

[EXHIBIT](#) (nah70a09)

ADJOURNMENT

03:25:43 Adjournment: 7:00 P.M.

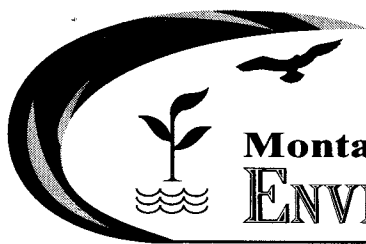
REP. WALTER MCNUTT, Chairman

NANCY KRAFT, Secretary

WM/nk

Additional Exhibits:

EXHIBIT ([nah70aad.pdf](#))



**Montana Department of
ENVIRONMENTAL QUALITY**

EXHIBIT 1
DATE 4-2-07
SB 446

Brian Schweitzer, Governor

P.O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • www.deq.mt.gov

SB 446

**Department of Environmental Quality Testimony
House Natural Resources Committee
April 2, 2007**

BACKGROUND

PWS Review Exemption

The Water Quality Act requires a permit for the discharge of sewage or industrial wastes to state waters. The Water Quality Act and rules adopted there under do not require an engineering review or an approval of plans and specifications for a public wastewater system that must obtain discharge permit. The Public Water Supply Act, however, requires public wastewater systems to meet certain engineering design standards as adopted by the Board of Environmental Review in Circulars DEQ-2 (Municipal Wastewater) and DEQ-4 (Subsurface Wastewater Systems).

In a 1995 amendment to various statutes an exemption in the requirements for a review was incorporated into the Public Water Supply Act:

"...However, any facility reviewed by the department under Title 75, chapter 5, (Water Quality Discharge Permits) is not subject to the provisions of this section."

At that time it was believed that the reviews performed under the Water Quality Act and separately under the Public Water Supply Act were duplicative and unnecessary. In addition, industrial discharges which did not co-mingle with domestic sewage were also subject to review under the Public Water Supply Act even though the state's adopted design standards did not directly apply to industrial discharges.

The Department believes both Public Water plan and specification review and Water Quality discharge permitting are important functions necessary to protect public health and the environment when domestic sewage is involved. While the Water Quality permit assures that the discharge into state waters will not significantly impact or degrade the quality of the water, the Public Water review assures that the system is adequately sized, constructed to standard specifications, and adequately operated to safely meet the treatment capacity needed for the protection of public health.

Despite the exemption in the statute, most systems that fall under this category are still reviewed by the department. Larger municipal wastewater systems usually obtain funding assistance or low-interest loans to pay for construction from state and federal funding programs. Under the funding requirements, these discharging facilities are required to comply with the design standards and are given an engineering design review that the Public Water Supply Act exemption would otherwise, not require. Additionally, there are other regulations that specifically require proposed wastewater systems to meet the engineering standards established through the Public Water Supply Act even though the Act itself would appear to exempt them.

With this bill the Department proposes to change the statute to accurately reflect what the current practice is for systems involving domestic type sewage. However, purely industrial waste systems will continue to be exempt from the Public Water Supply Act, but will still be required to obtain a Water Quality Act discharge permit.

Technical and Managerial Capacity at Water Systems

The Environmental Protection Agency requires DEQ to certify we have authority to adopt capacity development rules that pertain to financial, technical, and managerial functions at public drinking water systems. The penalty for failure to certify this authority is significant reduction in federal grant to the state for Drinking Water State Revolving Funds that are used to help fund water system improvements. The authority in state law to adopt financial capacity rules is clear. The authority to adopt rules pertaining to technical and managerial functions at water systems is not. A legal review of the statutes indicates that authority to adopt rules for technical and managerial function can be argued to exist; however, it is not intuitive and clear. DEQ Legal Counsel advises that if the department proposes other changes to the Public Water Supply Act as we are in this bill, we include amendments to expressly add rulemaking authority for technical and managerial functions.

Surface Water Source Protection

The original Montana Wellhead Protection Program was developed to meet the requirements of the 1986 federal Safe Drinking Water Act (SDWA) that pertained to the protection of drinking water wells. In 1996, amendments were made to the federal Act to develop the program into a mechanism for the protection of ALL public drinking water sources. The term "source water" is reflective of the broader application of the program that now includes both surface water and ground water. From a practical standpoint, the proposed change reflects that source water protection is applied to all sources of drinking water and not just well water. Approximately three-percent of public water supplies are from surface water sources.

SECTION-BY-SECTION DESCRIPTION

Section 1 amends 37-42-102 (6) and (7) by adding definitions of "Industrial waste" and "Industrial waste discharge system" to the Water and Wastewater Treatment Plant Operator Act. These definitions were previously included in this Act by reference to 75-6-102, but will be deleted with this bill. They must be re-inserted in 37-42-102 to retain the requirement for operator certification for industrial wastewater treatment plants.

Section 2 amends 75-6-102 by changing the definition of "certified wellhead protection area" to "certified source water protection area" to allow for voluntary protection programs of surface water as well as groundwater systems (see Section 6)

Section 2 also removes the definition of "industrial water discharge system". The requirement for plan and specification review of "industrial waste discharge system" will be deleted from 75-6-112 with this bill so the definition is no longer necessary.

Section 3 amends 75-6-103 by allowing the Board of Environmental Review to adopt rules and standards for the review of the technical and managerial capacity of a proposed public water or wastewater system as opposed to solely financial capacity.

Section 4 amends 75-6-104 to remove "industrial waste" from Department authority and responsibility under the Public Water Supply Act.

Section 5 amends 75-6-112 by removing prohibitions from the Public Water Supply Act duplicated in the Water Quality Act.

Section 5 also removes the exemption from plan and specification review of facilities subject to WQA permitting.

Section 6 amends 75-6-120 by changing references of "Wellhead protection program" to "Wellhead and source water protection program" to allow for voluntary protection programs of surface water as well as groundwater systems.

HOUSE OF REPRESENTATIVES
Roll Call
NATURAL RESOURCES COMMITTEE

DATE: ~~March 2007~~ 4-2-07

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
REP. WALTER MCNUTT, CHAIR	✓	
REP. RALPH HEINERT, VICE CHAIR	✓	
REP. RON ERICKSON, VICE CHAIR	✓	
REP. DUANE ANKNEY	✓	
REP. DEBBY BARRETT	✓	
REP. JILL COHENOUR	✓	
REP. SUE DICKENSON	✓	
REP. BETSY HANDS	✓	
REP. GORDON HENDRICK	✓	
REP. CAROL LAMBERT	✓	
REP. SCOTT MENDENHALL	✓	
REP. JP POMNICHOWSKI	✓	
REP. JOHN ROSS	✓	
REP. VERONICA SMALL-EASTMAN	✓	
REP. KENDALL VAN DYK	✓	
REP. CHAS VINCENT	✓	



HOUSE STANDING COMMITTEE REPORT

April 3, 2007

Page 1 of 1

Mr. Speaker:

We, your committee on **Natural Resources** recommend that **Senate Bill 324** (third reading copy -- blue) be concurred in as amended.

Signed: *Walter McNutt Chair*
Representative Walter McNutt, Chair

To be carried by Representative Janna Taylor

And, that such amendments read:

1. Page 1, line 18.

Following: "KNOWN RATE"

Insert: "or changing the pressure by a known quantity"

- END -

Committee Vote:

Yes 16, No 0

Fiscal Note Required ☐

710801SC.hjd

fbn
4/3/07

COMMITTEE FILE COPY

TABLED BILL

The HOUSE NATURAL RESOURCES COMMITTEE TABLED SB 218, SB 450, by motion, on Tuesday, April 3, 2007.

Nancy Kraft
(For the Committee)

john
(Chief Clerk of the House)

7:10 / 4/3
(Time) (Date)

April 3, 2007

Nancy Kraft, Secretary

Phone: 444-7353



HOUSE STANDING COMMITTEE REPORT

April 3, 2007
Page 1 of 1

Mr. Speaker:

We, your committee on **Natural Resources** recommend that **Senate Bill 147** (third reading copy -- blue) be concurred in.

Signed: *Walter McNutt*
Chair
Representative Walter McNutt, Chair

To be carried by Representative Carol Lambert

- END -

Committee Vote:

Yes 9, No 7

Fiscal Note Required ☐

710802SC.hjd

ybn
4/3/07



HOUSE STANDING COMMITTEE REPORT

April 3, 2007

Page 1 of 1

Mr. Speaker:

We, your committee on **Natural Resources** recommend that **Senate Bill 431** (third reading copy -- blue) be concurred in.

Signed: *Walter McNutt* *Chair*
Representative Walter McNutt, Chair

To be carried by Representative Bill Nooney

- END -

Committee Vote:

Yes 11, No 5

Fiscal Note Required ☐

710803SC.hjd

John
4/3/07

HOUSE OF REPRESENTATIVES

Roll Call Vote

NATURAL RESOURCES COMMITTEE

DATE 4-2-07 BILL NO SB 218 MOTION NO. 4
 MOTION: To Table

NAME	AYE	NO	ABSENTEE
REP. WALTER MCNUTT, CHAIR	✓		
REP. RALPH HEINERT, VICE CHAIR	✓		
REP. RON ERICKSON, VICE CHAIR		✓	
REP. DUANE ANKNEY	✓		✓
REP. DEBBY BARRETT	✓		
REP. JILL COHENOUR		✓	
REP. SUE DICKENSON		✓	
REP. BETSY HANDS		✓	
REP. GORDON HENDRICK	✓		
REP. CAROL LAMBERT	✓		
REP. SCOTT MENDENHALL	✓		
REP. JP POMNICHOWSKI		✓	
REP. JOHN ROSS	✓		
REP. VERONICA SMALL-EASTMAN		✓	
REP. KENDALL VAN DYK		✓	
REP. CHAS VINCENT	✓		

9-7

HOUSE OF REPRESENTATIVES

Roll Call Vote

NATURAL RESOURCES COMMITTEE

DATE 4-2-07 BILL NO. STR 20 MOTION NO. 1
 MOTION: _____

To Reconsider MOTION TO TABLE - PRESENT & VOTING

NAME	AYE	NO	ABSENTEE
REP. WALTER MCNUTT, CHAIR		✓	
REP. RALPH HEINERT, VICE CHAIR		✓	
REP. RON ERICKSON, VICE CHAIR	✓		
REP. DUANE ANKNEY		✓	✓
REP. DEBBY BARRETT		✓	
REP. JILL COHENOUR	✓		
REP. SUE DICKENSON	✓		
REP. BETSY HANDS	✓		
REP. GORDON HENDRICK		✓	
REP. CAROL LAMBERT		✓	
REP. SCOTT MENDENHALL		✓	
REP. JP POMNICHOWSKI	✓		
REP. JOHN ROSS		✓	
REP. VERONICA SMALL-EASTMAN	✓		
REP. KENDALL VAN DYK	✓		
REP. CHAS VINCENT		✓	

7-8

HOUSE OF REPRESENTATIVES

Roll Call Vote

NATURAL RESOURCES COMMITTEE

DATE 4-2-07

BILL NO SB 450 MOTION NO. 2

MOTION: ~~Amend 1, 2, 3, 4~~
~~To segregate 586 of 045002.001~~

NAME	AYE	NO	ABSENTEE
REP. WALTER MCNUTT, CHAIR	✓		
REP. RALPH HEINERT, VICE CHAIR	✓		
REP. RON ERICKSON, VICE CHAIR		✓	
REP. DUANE ANKNEY	✓		✓
REP. DEBBY BARRETT			
REP. JILL COHENOUR		✓	
REP. SUE DICKENSON		✓	
REP. BETSY HANDS		✓	
REP. GORDON HENDRICK	✓		
REP. CAROL LAMBERT	✓		
REP. SCOTT MENDENHALL	✓		
REP. JP POMNICHOWSKI	✓		
REP. JOHN ROSS	✓		
REP. VERONICA SMALL-EASTMAN		✓	
REP. KENDALL VAN DYK	✓		
REP. CHAS VINCENT	✓		

11-5

HOUSE OF REPRESENTATIVES

Roll Call Vote

NATURAL RESOURCES COMMITTEE

DATE 4-2-07 BILL NO SB 450 MOTION NO. 2
 MOTION: ON AMEND. 3-6

NAME	AYE	NO	ABSENTEE
REP. WALTER MCNUTT, CHAIR	✓		
REP. RALPH HEINERT, VICE CHAIR	✓		
REP. RON ERICKSON, VICE CHAIR		✓	
REP. DUANE ANKNEY	✓		✓
REP. DEBBY BARRETT	✓		
REP. JILL COHENOUR		✓	
REP. SUE DICKENSON	✓		
REP. BETSY HANDS		✓	
REP. GORDON HENDRICK	✓		
REP. CAROL LAMBERT	✓		
REP. SCOTT MENDENHALL	✓		
REP. JP POMNICHOWSKI	✓		
REP. JOHN ROSS	✓		
REP. VERONICA SMALL-EASTMAN		✓	
REP. KENDALL VAN DYK	✓		
REP. CHAS VINCENT	✓		

12-4

HOUSE OF REPRESENTATIVES

Roll Call Vote

NATURAL RESOURCES COMMITTEE

DATE 4-2-07

BILL NO SB 450 MOTION NO. 4

MOTION: Do Concur as Amended

NAME	AYE	NO	ABSENTEE
REP. WALTER MCNUTT, CHAIR	✓		
REP. RALPH HEINERT, VICE CHAIR	✓		
REP. RON ERICKSON, VICE CHAIR		✓	
REP. DUANE ANKNEY	✓		✓
REP. DEBBY BARRETT		✓	
REP. JILL COHENOUR	✓		
REP. SUE DICKENSON	✓		
REP. BETSY HANDS	✓		
REP. GORDON HENDRICK		✓	
REP. CAROL LAMBERT		✓	
REP. SCOTT MENDENHALL		✓	
REP. JP POMNICHOWSKI		✓	
REP. JOHN ROSS	✓		
REP. VERONICA SMALL-EASTMAN	✓		
REP. KENDALL VAN DYK		✓	
REP. CHAS VINCENT		✓	

8-8

HOUSE OF REPRESENTATIVES

Roll Call Vote

NATURAL RESOURCES COMMITTEE

DATE 4-2-07 BILL NO SB 450 MOTION NO. 5
 MOTION: To Table

NAME	AYE	NO	ABSENTEE
REP. WALTER MCNUTT, CHAIR	✓		
REP. RALPH HEINERT, VICE CHAIR	✓		
REP. RON ERICKSON, VICE CHAIR		✓	
REP. DUANE ANKNEY	✓		✓
REP. DEBBY BARRETT	✓		
REP. JILL COHENOUR		✓	
REP. SUE DICKENSON		✓	
REP. BETSY HANDS		✓	
REP. GORDON HENDRICK	✓		
REP. CAROL LAMBERT	✓		
REP. SCOTT MENDENHALL	✓		
REP. JP POMNICHOWSKI		✓	
REP. JOHN ROSS	✓		
REP. VERONICA SMALL-EASTMAN		✓	
REP. KENDALL VAN DYK	✓		
REP. CHAS VINCENT	✓		

106

HOUSE OF REPRESENTATIVES

Roll Call Vote

NATURAL RESOURCES COMMITTEE

DATE 4-2-07 BILL NO SB 450 MOTION NO. 6
 MOTION: To Reconsider - Present & voting

NAME	AYE	NO	ABSENTEE
REP. WALTER MCNUTT, CHAIR		✓	
REP. RALPH HEINERT, VICE CHAIR		✓	
REP. RON ERICKSON, VICE CHAIR	✓		
REP. DUANE ANKNEY	—	—	
REP. DEBBY BARRETT		✓	
REP. JILL COHENOUR	✓		
REP. SUE DICKENSON	✓		
REP. BETSY HANDS	✓		
REP. GORDON HENDRICK		✓	
REP. CAROL LAMBERT		✓	
REP. SCOTT MENDENHALL		✓	
REP. JP POMNICHOWSKI	✓		
REP. JOHN ROSS		✓	
REP. VERONICA SMALL-EASTMAN	✓		
REP. KENDALL VAN DYK		✓	
REP. CHAS VINCENT		✓	

6-9

HOUSE OF REPRESENTATIVES

Roll Call Vote

NATURAL RESOURCES COMMITTEE

DATE 4-2-07

BILL NO SB 147

MOTION NO. A 1

MOTION: To Reconsider - present & voting

NAME	AYE	NO	ABSENTEE
REP. WALTER MCNUTT, CHAIR		✓	
REP. RALPH HEINERT, VICE CHAIR		✓	
REP. RON ERICKSON, VICE CHAIR	✓		
REP. DUANE ANKNEY	✓	✓	
REP. DEBBY BARRETT		✓	
REP. JILL COHENOUR	✓		
REP. SUE DICKENSON	✓		
REP. BETSY HANDS	✓		
REP. GORDON HENDRICK		✓	
REP. CAROL LAMBERT	✓		
REP. SCOTT MENDENHALL		✓	
REP. JP POMNICHOWSKI	✓		
REP. JOHN ROSS	✓		
REP. VERONICA SMALL-EASTMAN	✓		
REP. KENDALL VAN DYK	✓		
REP. CHAS VINCENT		✓	

9-6

HOUSE OF REPRESENTATIVES

NATURAL RESOURCES COMMITTEE

DATE 4-2-07 BILL NO 5B 147 MOTION NO. 2

MOTION: Amendment 014701.aki

NAME	AYE	NO	ABSENTEE
REP. WALTER MCNUTT, CHAIR	✓		
REP. RALPH HEINERT, VICE CHAIR	✓		
REP. RON ERICKSON, VICE CHAIR		✓	
REP. DUANE ANKNEY	✓		✓
REP. DEBBY BARRETT		✓	
REP. JILL COHENOUR		✓	
REP. SUE DICKENSON		✓	
REP. BETSY HANDS		✓	✓
REP. GORDON HENDRICK	✓		
REP. CAROL LAMBERT	✓		
REP. SCOTT MENDENHALL	✓		
REP. JP POMNICHOWSKI		✓	
REP. JOHN ROSS	✓		
REP. VERONICA SMALL-EASTMAN		✓	
REP. KENDALL VAN DYK		✓	
REP. CHAS VINCENT	✓		

8-8

HOUSE OF REPRESENTATIVES

Roll Call Vote

NATURAL RESOURCES COMMITTEE

DATE 4-2-07 BILL NO SB 147 MOTION NO. 21
 MOTION: DO CONCUR

NAME	AYE	NO	ABSENTEE
REP. WALTER MCNUTT, CHAIR		✓	
REP. RALPH HEINERT, VICE CHAIR		✓	
REP. RON ERICKSON, VICE CHAIR	✓		
REP. DUANE ANKNEY		✓	✓
REP. DEBBY BARRETT		✓	
REP. JILL COHENOUR	✓		
REP. SUE DICKENSON	✓		
REP. BETSY HANDS	✓		✓
REP. GORDON HENDRICK		✓	
REP. CAROL LAMBERT	✓		
REP. SCOTT MENDENHALL		✓	
REP. JP POMNICHOWSKI	✓		
REP. JOHN ROSS	✓		
REP. VERONICA SMALL-EASTMAN	✓		
REP. KENDALL VAN DYK	✓		
REP. CHAS VINCENT		✓	

9-7

HOUSE OF REPRESENTATIVES

Roll Call Vote

NATURAL RESOURCES COMMITTEE

DATE 4-2-07 BILL NO SB431 MOTION NO. 1
 MOTION: Do Concur

NAME	AYE	NO	ABSENTEE
REP. WALTER MCNUTT, CHAIR	✓		
REP. RALPH HEINERT, VICE CHAIR	✓		
REP. RON ERICKSON, VICE CHAIR	✓		
REP. DUANE ANKNEY	✓		✓
REP. DEBBY BARRETT		✓	
REP. JILL COHENOUR	✓		
REP. SUE DICKENSON		✓	
REP. BETSY HANDS	✓		✓
REP. GORDON HENDRICK	✓		
REP. CAROL LAMBERT	✓		
REP. SCOTT MENDENHALL	✓		
REP. JP POMNICHOWSKI		✓	
REP. JOHN ROSS	✓		
REP. VERONICA SMALL-EASTMAN	✓		
REP. KENDALL VAN DYK		✓	
REP. CHAS VINCENT		✓	

11-5

AUTHORIZED COMMITTEE PROXY

I request to be excused from the Natural Resources

Committee because of other commitments. I desire to leave my proxy vote with:
Vice Chair - Lyle J. Jurek

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT	AYE	NO
<u>Amend-</u> <u>SB-21801.2K1</u>	☒	☐
<u>SB-218 Move</u>	☒	☐
<u>to TABLE</u>	☐	☐
<u>Motion to Reconsider</u>	☒	☐
<u>SB-20</u>	☐	☐
<u>Amend SB-324</u>	☒	☐
<u>SB-324 2.5 Amend</u>	☒	☐
<u>Amend SB-45002</u>	☐	☐
<u>Items #1, #2, #3, #4</u>	☒	☐
<u>Items #5, #6</u>	☒	☐
<u>SB-450 Amended</u>	☒	☐

BILL/AMENDMENT	AYE	NO
<u>Amended</u> <u>SB-450 TABLE</u>	☒	☐
<u>SB-147 Amend</u>	☒	☐
<u>SB-147</u>	☐	☒
<u>SB-431</u>	☒	☐
	☐	☐
	☐	☐
	☐	☐
	☐	☐
	☐	☐
	☐	☐

Rep. [Signature]
(Signature)

Date 4/2/2007

**AUTHORIZED
COMMITTEE PROXY**

I request to be excused from the Natural Resources

Committee because of other commitments. I desire to leave my proxy vote with:

Ron Erickson

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT	AYE	NO
amendment 147		X
HB 147	X	
SB 431	X	

BILL/AMENDMENT	AYE	NO

Rep. Patry Wick
(Signature)

Date 4/2

Montana House of Representatives
Visitors Register

NATURAL RESOURCES COMMITTEE

Date 4-2-07

SB 324; 376;
Bill No. SB 446; 450

Sponsor(s) Sen. Jackson; Sen. Perry;
Sen. Jurek

PLEASE PRINT

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Name and Address	Representing	Support	Oppose	Inf.
Mike Murphy	MWRA	SB 324 SB 376		
Mike Murphy	MWRA		SB 450	
Joan Callahan	RWRCC		SB 450	
Faye Bergan	RWRCC		SB 450	
Jon Willard	MT DEC	SB 446		
John Carter	Salish & Kootenai Tribes	SB 450		
James Steele, Jr	Confed Salish & Kootenai	SB 450		
STEVE LOZAR	"	SD 450		
Carlene Hankerd	"	SD 450		
Ron Graham	" "	SD 450		
Michael Merrill	" "	SD 450		
Gerald Mueller	Clark Fork Task Force	324 376		
MARK D. RELLER	Bonville Power Admin			SB 376
Tom Patton	NABMG			SB 324
Don Tuck	DDHC	324 376		
ROBLO SHROPSHIRE	my self	324		
Metropoulos		SB 450	SB 450	

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

Montana House of Representatives
Visitors Register

NATURAL RESOURCES COMMITTEE

Date 4-2-07

SB 324; 376;
Bill No. SB 44; 450 Sponsor(s) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

Name and Address	Representing	Support	Oppose	Inf.
Holly Franz	PPL Montana	SB 324 SB 376		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 60th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chairman Walter McNutt, on April 4, 2007 at 3:15 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Walter McNutt, Chairman (R)
Rep. Ron Erickson, Vice Chairman (D)
Rep. Ralph Heinert, Vice Chairman (R)
Rep. Jill Cohenour (D)
Rep. Betsy Hands (D)
Rep. Gordon R. Hendrick (R)
Rep. Carol Lambert (R)
Rep. Scott Mendenhall (R)
Rep. JP Pomnichowski (D)
Rep. John (Jack) W. Ross (R)
Rep. Kendall Van Dyk (D)
Rep. Chas Vincent (R)

Members Excused: Rep. Duane Ankney (R)
Rep. Debby Barrett (R)
Rep. Sue Dickenson (D)
Rep. Veronica Small-Eastman (D)

Members Absent: None

Staff Present: Krista Lee Evans, Legislative Branch
Nancy Kraft, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: None
Executive Action: SB 376; SB 446; SB 452

EXECUTIVE ACTION ON SB 376

00:01:14 **Motion:** Rep. Erickson moved that SB 376 **BE CONCURRED IN.**

Discussion:

00:01:26 Rep. Erickson

00:02:07 **Vote:** Motion carried unanimously by voice vote. Reps. Ankney, Barrett, Dickenson, McNutt, and Small-Eastman voted by proxy. Rep. Heinert will carry the bill

EXECUTIVE ACTION ON SB 446

00:03:06 **Motion/Vote:** Rep. Erickson moved that SB 446 **BE CONCURRED IN.** Motion carried unanimously by voice vote. Reps. Ankney, Barrett, Dickenson, McNutt, and Small-Eastman voted by proxy. Rep. Cohenour will carry the bill.

EXECUTIVE ACTION ON SB 452

00:04:19 **Motion:** Rep. Erickson moved that SB 452 **BE CONCURRED IN.**

Discussion:

00:04:37 Rep. Hendrick

00:05:28 **Substitute Motion/Vote:** Rep. Mendenhall made a substitute motion that SB 452 **BE TABLED.** Substitute motion carried 9-7 by roll call vote with Reps. Cohenour, Dickenson, Erickson, Hands, Pomnichowski, Small-Eastman, and Van Dyk voting no. Reps. Ankney, Barrett, Dickenson, and Small-Eastman voted by proxy.

ADJOURNMENT

00:07:14 Adjournment: 3:30 P.M.

REP. WALTER MCNUTT, Chairman

NANCY KRAFT, Secretary

WM/nk

Additional Exhibits:

EXHIBIT ([nah72aad.pdf](#))

HOUSE OF REPRESENTATIVES
Roll Call
NATURAL RESOURCES COMMITTEE

DATE: 4-4-07

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
REP. WALTER MCNUTT, CHAIR	✓	NAJ
REP. RALPH HEINERT, VICE CHAIR	✓	
REP. RON ERICKSON, VICE CHAIR	✓	
REP. DUANE ANKNEY		✓
REP. DEBBY BARRETT	NAJ	✓
REP. JILL COHENOUR	✓	
REP. SUE DICKENSON		✓
REP. BETSY HANDS	✓	
REP. GORDON HENDRICK	✓	
REP. CAROL LAMBERT	✓	
REP. SCOTT MENDENHALL	✓	
REP. JP POMNICHOWSKI	✓	
REP. JOHN ROSS	✓	
REP. VERONICA SMALL-EASTMAN		✓
REP. KENDALL VAN DYK	✓	
REP. CHAS VINCENT	✓	



HOUSE STANDING COMMITTEE REPORT

April 4, 2007

Page 1 of 1

Mr. Speaker:

We, your committee on **Natural Resources** recommend that **Senate Bill 376** (third reading copy -- blue) be concurred in.

Signed: *Walter J. McNutt*
Representative Walter McNutt, Chair

To be carried by Representative Ralph Heinert

- END -

Committee Vote:

Yes 16, No 0

Fiscal Note Required ☐

721539SC.hjd

rb
4/4/07



HOUSE STANDING COMMITTEE REPORT

April 4, 2007

Page 1 of 1

Mr. Speaker:

We, your committee on **Natural Resources** recommend that **Senate Bill 446** (third reading copy -- blue) be concurred in.

Signed:

Walter McNutt
Representative Walter McNutt, Chair

To be carried by Representative Jill Cohenour

- END -

Committee Vote:

Yes 16, No 0

Fiscal Note Required ____

721540SC.hjd

jbw
4/4/07

COMMITTEE FILE COPY

TABLED BILL

The **HOUSE NATURAL RESOURCES COMMITTEE** TABLED **SB 452**, by motion, on **Wednesday, April 4, 2007**.

Nancy Kraft
(For the Committee)

john
(Chief Clerk of the House)

4:00 / 4/4
(Time) (Date)

April 4, 2007

Nancy Kraft, Secretary

Phone: 444-7353

HOUSE OF REPRESENTATIVES

Roll Call Vote

NATURAL RESOURCES COMMITTEE

DATE 4-4-07 BILL NO SB 452 MOTION NO. 2
 MOTION: TO TABLE

NAME	AYE	NO	ABSENTEE
REP. WALTER MCNUTT, CHAIR	✓		
REP. RALPH HEINERT, VICE CHAIR	✓		
REP. RON ERICKSON, VICE CHAIR		✓	
REP. DUANE ANKNEY	✓		✓
REP. DEBBY BARRETT	✓		✓
REP. JILL COHENOUR		✓	
REP. SUE DICKENSON		✓	✓
REP. BETSY HANDS		✓	
REP. GORDON HENDRICK	✓		
REP. CAROL LAMBERT	✓		
REP. SCOTT MENDENHALL	✓		
REP. JP POMNICHOWSKI		✓	
REP. JOHN ROSS	✓		
REP. VERONICA SMALL-EASTMAN		✓	✓
REP. KENDALL VAN DYK		✓	
REP. CHAS VINCENT	✓		

9-7

**AUTHORIZED
COMMITTEE PROXY**

I request to be excused from the

Natural Resources

Committee because of other commitments. I desire to leave my proxy vote with:

Rep. Gordon Sunducks

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT

AYE NO

SB 376	1	
SB 446	1	

BILL/AMENDMENT

AYE NO

Rep.

Attorney J. M. [Signature]

(Signature)

Date

4/4/07

AUTHORIZED COMMITTEE PROXY

I request to be excused from the Natural Resources

Committee because of other commitments. I desire to leave my proxy vote with:

Rep. Gordon Hendricks

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT

AYE NO

SB-376	✓	
SB-446	✓	
SB-452 Title	✓	

BILL/AMENDMENT

AYE NO

Rep. [Signature]
(Signature)

Date 4/04/07

**AUTHORIZED
COMMITTEE PROXY**

I request to be excused from the Natural Resources

Committee because of other commitments. I desire to leave my proxy vote with:

Rep. Gordon Hendricks

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT

AYE NO

SB 376	✓	
SB 446	✓	
SB 452 Table	✓	

BILL/AMENDMENT

AYE NO

Rep.

Debby Bassett
(Signature)

Date

4/4/07

AUTHORIZED COMMITTEE PROXY

I request to be excused from the Natural Resources

Committee because of other commitments. I desire to leave my proxy vote with:

Ron Erickson

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT AYE NO

SB 376	X	
SB 446	X	
Tull 55 452	X	X

BILL/AMENDMENT AYE NO

Rep. Sue Dickerson
(Signature)

Date 4/4

AUTHORIZED COMMITTEE PROXY

I request to be excused from the Nat. Res.

Committee because of other commitments. I desire to leave my proxy vote with:
Ron Encks,

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT	AYE	NO
SR 376	X	
SB 446	X	
Table SB 452		X

BILL/AMENDMENT	AYE	NO

Rep. Veronica Small-Eastman
(Signature)

Date 4/1/4

Montana House of Representatives
Visitors Register

NATURAL RESOURCES COMMITTEE - Executive Date 4-4-07
Action

Bill No. SB 376, 446, 452 Sponsor(s) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

Name and Address	Representing	Support	Oppose	Inf.
Jon D. Mian	MT DEQ	SB 446		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.